

# Rules and Regulations Governing the Subdivision of Land In Upton, Massachusetts

Adopted under subdivision control law:  
M.G.L., Chapter 41, Sections 81-K to 81-GG inclusive

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**RULES AND REGULATIONS GOVERNING  
THE SUBDIVISION OF LAND  
UPTON, MASSACHUSETTS**

**Amended:**

April 27, 1982, August 14, 1984, March 5, 1985, April 22, 1986, May 13, 1986, July 14, 1987, May 31, 1988, November 22, 1988, April 13, 1993, May 25, 1993, May 23, 1995, March 14, 2000, October 23, 2001, February 8, 2005.

Adopted under the Subdivision Control Law; M.G.L., Chapter 41, section 81-K to 81-GG inclusive, September 30, 1970.

**Purpose**

These subdivision regulations are adopted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town of Upton by “regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of (the) Planning Board and of (the) Board of Appeal under the subdivision control law shall be exercised with due regard for the provisions of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger of life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning...bylaws; for securing adequate provision for water, sewerage, drainage, and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the town and with the ways in neighboring subdivisions.

“It is the intent of the subdivision control law (under which these regulation are adopted) that any subdivision plan filed with the Planning Board shall receive the approval of such Board if said plan conforms to the recommendation of the Board of Health and to the reasonable rules and regulation of the Planning Board pertaining to subdivisions of land; provided, however, that such Board may, when appropriate, waive, as provided for in Section eighty-one R (81-R), such portions of the rules and regulations as is deemed advisable.” (Section 81-M of Chapter 41, G.L.)

## SECTION I. Authority

Under the authority vested in the Planning Board of the Town of Upton by Section 81-Q of Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of the land in the Town of Upton. These regulations shall be effective after approved and certified by the Register of Deeds and Recorder of Land Court.

## SECTION II. General

### A. Definitions

**Applicant:** A person who applies for the approval of a plan of a subdivision or a person who applies under Section B, including his agents, representatives, and assigns.

**Board:** The Planning Board of the Town of Upton.

**Buildable Area:** Buildable area shall be defined as an area of land not containing the following:

- Areas of land with a slope exceeding 20%.
- Areas of land containing retention basins and/or detention basins.
- Areas of land containing utility, drainage and/or access easements.
- Areas of land containing wetlands or floodplains as defined in M.G.L. C131, §40.

**Department of Public Works:** The Department of Public Works of the Town of Upton including the Water Division, Sewer Division and Highway Division. When approvals are required from the Department of Public Works, approval shall be obtained from the Director of Public Works or an authorized Department of Public Works representative.

**Frontage:** Frontage shall be the linear extent of a lot measured along the a public right of way from the intersection of one lot line to the intersection of the other side lot line of the same lot.

*Commentary:* per Upton Zoning Bylaw, Section XV.

**General Laws:** (abbreviated G.L.) The General Laws of Massachusetts. In case of a rearrangement of the General Laws, any citation of particular sections of the General Laws shall be applicable to the corresponding sections in the new codification.

**Lot:** A lot shall be defined as a single tract of land held in identical ownership throughout and defined by metes, bounds, or lot lines in a deed or conveyance, or shown on a duly recorded plan.

*Commentary:* per Upton Zoning Bylaw, Section XV.

**Municipal Services:** Sewers, water drains, water pipes, gas pipes, electric lines, telephone lines, fire alarm lines, and their respective appurtenances.

**Owner:** As applied to real estate, the person holding the ultimate fee simple title to a parcel, tract or lot of land, as showed by the record in the appropriate Land Registration Office, Registry of Deeds or Registry of Probate.

**Parcel:** A parcel shall be defined as a single tract of land held in identical ownership throughout and defined by metes, bounds, or lot lines in a deed or conveyance that does not necessarily meet the minimum building zoning requirements for the district within which it lies.

**Plan or Definitive Plan:** The plan of a subdivision as submitted (with appropriate application) to the Board for approval, to be recorded in the Registry of Deeds when approved by the Board; and such plan when approved and recorded, all as distinguished from a preliminary plan.

**Preliminary Plan:** A plan of a proposed subdivision or re-subdivision of land prepared in accord with Section III to facilitate proper preparation of a definitive plan.

Roadway: That portion of a way which is designed and prepared for vehicular travel.

**Shall:** Indicates a mandatory requirement.

**Should:** Indicates a recommendation or that which is advised but not necessarily required.

Street, Major: A street which, in the opinion of the Board, is being used, or will be used as a thoroughfare between different portions of the Town of Upton, or which will otherwise carry a heavy volume of traffic (generally, over fifteen hundred [1500] vehicles per day).

Street, Minor: A street which in the opinion of the Board, is being used, or will be used primarily, to provide access to abutting lots and which will not be used for through traffic; a street carrying less than four hundred [400] vehicles per day and/or less than 3,000 feet in length.

Street, Secondary: A street intercepting one [1] or more minor streets and which, in the opinion of the Board, is used or will be used to carry a substantial volume of traffic (generally, over four hundred [400] vehicles per day) from such minor street(s) or community facility, and normally including the principal entrance street of a large subdivision, or group of subdivisions, and any principal circulation's street within such subdivisions.

Subdivision: "Subdivision" shall mean the division of a tract of land into two [2] or more lots and shall include re-subdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of the tract of land into two [2] or more lots shall not be deemed to constitute a subdivision with 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:

1. A public way, or a way which the clerk of the Town certifies is maintained and used as a public way; or
2. A way shown on a plan heretofore approved in accordance with the subdivision control law; or
3. A way in existence when the subdivision control law became effective in the Town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least a distance that is required by zoning or other bylaw, if any, of the Town of Upton for erection of a building on such lot.

Conveyances or other instrument adding to, taking away from, or changing the size and shape of, lots in such a manner as not leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two [2] or more buildings were standing when the subdivision control law went into effect in the town in which the land lies into separate lots on each of which one [1] of such building remains standing, shall not constitute a subdivision.

Utilities: Utilities shall include electric lines and service, telephone lines and service, fire alarm lines, water pipes, gas pipes, sewer pipes and manholes, water drain pipes and manholes, cable television lines and service and their respective appurtenances.

**(M.G.L., CHAPTER 41, SECTION 81L)**

**B. Plan Believed Not to Require Approval**

1. Submission of Plan

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 his plan does not require approval under the Subdivision Control Law may submit his plan and application Form A (see Appendix) and a filing fee (see Appendix), to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by 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 and describing the land to which the plan relates sufficiently for identification. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefore.

**1.1 All plot plans submitted for 81-P [ANR/Form A] endorsement shall contain the following information. See appendix for example.**

**1. A data table indicating the:**

- **Zoning District of the respective lot(s) and/or parcel(s);**
- **Frontage requirement of the Zoning District;**
- **Square foot area requirement of the Zoning District;**
- **Setback requirements of the Zoning District;**
- **Total amount of area of the respective lot(s) and/or parcel(s); and**
- **Percentage of buildable area of the respective lot(s).**

**2. A locus.**

**3. A surveyor stamp and license number.**

**4. The tract(s) of land on the plot plan shall be labeled either lots or parcels with respect to their definition.**

**5. The total straight-line measurement of frontage shall be clearly shown on the plot plan.**

**6. The location at which point the lot narrows to 80% of the frontage distance requirement.**

*Commentary: per Upton Zoning Bylaws Section VI.*

**7. The location of a minimum twenty-four foot [24ft] frontage access to the buildable portion of the proposed lot shall be shown on the plot plan.**

**8. A profile of the existing grade(s) of the access to the buildable portion of the proposed lot shall be shown on the plot plan.**

**9. Access to two or more lots using the same egress requires a common drive and shall be labeled as such and shall be clearly shown. *Commentary: per Upton Zoning Bylaws Section III.J and Section XV.***

**10. Major features of the land; such as outcroppings, waterways, natural drainage courses, man-made drainage courses and wetlands that exist on the proposed lot.**

**11. All easements on the lot and/or parcel shall be defined and clearly marked.**

**12. All existing structures on the lot and/or parcel shall be shown.**

2. Endorsement of Plan Not Requiring Approval

If the Planning Board determines that the plan does not require approval, it shall without a public hearing and without unnecessary delay endorse on the plan the words "Approval under the Subdivision Control Law not required."

The Planning Board may add to such endorsement a statement of the reason(s) approval is not required. The plan will be returned to the applicant, and the Planning Board shall notify the Town Clerk in writing of its action.

### 3. Determination that Plan Requires Approval

If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it will so inform in writing the applicant and return the plan. The Planning Board will also notify the Town Clerk in writing of its action.

### 4. Failure of Board to Act

If the Planning Board fails to act upon a plan submitted under this section or fails to notify the Clerk of the Town and the person submitting the plan of its action within twenty-one days [21] after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

### **C. Approved Plan Required**

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land with the Town, or proceed with improvement for sale of lots in a subdivision, or the construction of ways, or preparation therefore of the installation of utilities and municipal services therein, unless and until a Definitive Plan of subdivision has been submitted and approved by the Planning Board as hereinafter provided.

### **D. More Than One Dwelling on a Lot**

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lots in a subdivision, or elsewhere in the Town, without the consent of the Planning Board.

Such consent may be conditioned upon the providing of adequate ways furnishing access to each such building and adequate improvements in the same manner as otherwise required for lots within the subdivision.

### **E. Application to Planned Unit Development**

An applicant who seeks a special permit from the Zoning Board of Appeals for construction of town houses, garden apartments, condominiums or a planned unit development shall also file a Definitive Plan with the Planning Board and otherwise comply with all procedures contained herein for the submission of a Definitive Plan, and all design and construction specifications shall apply to all interior streets (considered Minor Streets unless otherwise designated by the Planning Board), public ways, sidewalks and parking areas, the latter to be constructed to the same construction specifications as a street.

### **F. Fee Delinquencies**

The Planning Board may refuse to accept for filing or approval any plan submitted by a person or entity that has outstanding and delinquent fees in connection with any other subdivision and/or plan previously submitted to the Planning Board.

### **G. Area & Frontage Calculations**

In computing any areas for any purpose, the Planning Board may exclude paved areas and any land that is not buildable or otherwise useable. In no event shall the area of any individual lot within a subdivision be less than 50% buildable. When measuring frontage along a curved way, the Planning Board shall measure the distance along a straight chord running between lot line intersections. Only frontage along a single way shall be used for determining frontage requirements. Frontage along cul-de-sacs shall be considered 70% of the frontage measured along the curve.

### **SECTION III. PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS**

#### **A.1 Preliminary Plan, Conventional Subdivision**

##### **1. General**

A Preliminary Plan of a conventional subdivision may be submitted by the applicant to the Planning Board and to the Board of Health for discussion and approval, modification or disapproval by each board. The submission of such a Preliminary Plan, which is not a binding commitment, will enable the applicant, the Planning Board, the Board of Health, the Department of Public Works, the Building Inspector, and other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case. A properly executed application Form B and Form D (see Appendix) shall be filed with the Preliminary Plan submitted to the Planning Board.

During any discussion of the Preliminary Plan the complete information required for the Definitive Plan (e.g. Section III B-2, Contents) and the financial arrangements (e.g. Section III B-8, Performance Guarantee) will be developed.

The applicant shall file by hand delivery or registered mail a notice with the Town Clerk stating the date of submission to the Planning Board for approval of a Preliminary Plan and accompanied by a copy of the completed application Form B and Form D.

##### **2. Contents**

The Preliminary Plan shall be drawn in black line or blue line on white bond paper at a suitable scale, preferably forty feet [40'] to the inch, and six [6] prints of it shall be filed with the Planning Board, together with filing fee and an Engineer review fee, (see Appendix). If multiple sheets are used, they will be accompanied by an index sheet at a scale of one inch [1"] equals four hundred [400'] showing the entire subdivision and adjacent streets.

The Plan shall be designated as a "Preliminary Plan, Conventional" and to form a clear basis for discussion of the subdivision and preparation of the Definitive Plan.

The plan should contain the following:

- a. Major features of the land such as existing walls, fences, buildings, large trees, wooded areas, outcroppings, ditches, rock ridges, swamps, and water bodies, the subdivision name boundaries, north point, date, scale, legend, and title "Preliminary Plan, Conventional".
- b. The names of the record owner of the land and the applicant and the name of the designer, engineer and surveyor who made the plan.
- c. The names of all abutters, as determined from the most recent local tax list.
- d. The existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner.
- e. The proposed system of drainage, including adjacent existing natural waterways, in a general manner.
- f. The approximate boundary lines of proposed lots, with approximate areas and dimensions.
- g. The names, approximate location and widths of adjacent streets.
- h. The topography of the land in a general manner.
- i. The profiles of existing grades and approximate proposed finished grades of the roadways, drainage, and water facilities.
- j. The proposed system for the supply of water and sewer / subsurface sewage disposal.
- k. The proposed system for fire protection.
- l. Provision for open space in accordance with Section IV-K of these rules and regulations.

m. These rules and regulations. The following table shall be titled and shown on the index sheet or equivalent of the subdivision plan as submitted: (the values listed below are for example only)

Calculated Buildable Area Per Lot

	A	B	C	D	E
Lot No.	Total Area Square Feet	Area in Wetlands Square Feet	Area in Easement Square Feet	Area in Wetland & Easement. SF	% Buildable (A-D)/A = E
1	40,000	0	2,000	2,000	95%
2	50,000	8,000	2,500	10,500	79%

- Footnote: Easement values to include access and/or drainage easements only.

n. Such other documents and information as the Planning Board may request.

**3. Approval**

After making a decision, but within the forty-five (45) day time limit, both the Planning Board and the Board of Health shall each notify the applicant and the Town Clerk by certified mail of its approval, approval with modifications or disapproval, as the case may be.

- No Register of Deeds shall record a preliminary plan.
- A developer has no right to appeal from the action on a preliminary subdivision plan.
- The Planning Board’s disapproval of a preliminary plan does not authorize the Board to refuse to receive a definitive plan properly submitted.
- Failure of either board to take action does not mean approval of the preliminary plan.

A definitive plan must be submitted within seven (7) months after submission of the preliminary plan and must be evolved from it to retain exemptions from zoning changes and amendments to the subdivision rules and regulations.

**4. Fees**

- A non-refundable filing fee will be paid to the Town of Upton, (see Appendix).
- Any person who files a Preliminary Plan with the Planning Board shall pay an engineering review fee, (see appendix). To the extent that the engineering review fees paid upon filing of a Preliminary Plan shall prove to be insufficient to pay for the evaluation and review of the Preliminary Plan by independent engineers hired by the Planning Board, and/or pay for clerical, publication, and all other related costs. The developer shall pay all invoices submitted to him by the Planning Board within thirty [30] days. The unexpended balance shall be returned to the subdivider when approval or disapproval is issued.

## **A.2 Preliminary Plan, Open Space Subdivision**

### **1. General**

A Preliminary Plan of an Open Space Subdivision may be submitted by the Applicant to the Planning Board, Conservation Commission and to the Board of Health for discussion and approval, modification or disapproval by each board. The submission of such an Open Space Preliminary Plan, which is not a binding commitment, will enable the applicant, the Planning Board, the Conservation Commission, the Board of Health, the Department of Public Works, the Building Inspector, and other municipal agencies and owners of property abutting the proposed subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case. A properly executed application Form B and Form D (see Appendix) shall be filed with the Open Space Preliminary Plan submitted to the Planning Board.

It is the responsibility of the applicant to provide sufficient documentation to establish that the number of lots proposed in an Open Space Subdivision is of no greater density than would be allowed by the Planning Board in a conventional subdivision. The burden of proof shall be upon the applicant to prove that each of the proposed lots is suitable for building. The Planning Board reserves the right to challenge the developability of any conventional lot and to not allow said lot(s) to be considered in calculating the maximum number of open space lots. Required documentation shall include, without limitation, the following:

- Soil testing results for 100% of the identified lots in the conventional plan for suitability of subsurface sewage disposal. The soil testing report shall be from a Certified Soil Evaluator, with confirmation that the results have been approved by a Planning Board reviewing engineer and the Board of Health for 100% of the lots identified in the conventional plan. The report shall state which lots on said plan contain soil conditions suitable for subsurface sewage disposal in accordance with rules and regulations of the Town of Upton and applicable laws of the Commonwealth of Massachusetts if onsite sewage disposal is required. Note content section for more detail.
- A layout for each lot and supporting technical documentation to clearly demonstrate that each conventional lot can also fully comply with all of the applicable laws and regulations pertaining to all zoning and dimensional requirements, sewage disposal, water supply, wetland protection and storm management.

The foregoing list is not exhaustive, and the Planning Board reserves the right to require such further documentation or other evidence, as it deems necessary or appropriate.

After an Open Space Subdivision application has been submitted, there shall be no tree removal, utility installation, ditching, grading or construction, except for the purpose of soil testing, on any part of the development site until the application has been reviewed and approved as provided by these regulations.

During the discussion of the Open Space Preliminary Plan the complete information required for the Definitive Plan (Section III B-2, Contents) and the financial arrangements (Section III B-8, Performance Guarantee) will be developed.

The applicant shall file by hand delivery or registered mail a notice with the Town Clerk stating the date of submission to the Planning Board for approval of an Open Space Preliminary Plan and accompanied by a copy of the completed application, form B and a Designer Certificate, form D.

## 2. Contents

The Open Space Preliminary Plan shall be drawn in black line or blue line on white bond paper at a suitable scale, preferably forty feet [40'] to the inch, and six [6] prints of it shall be filed with the Planning Board, together with a filing fee (see appendix). If multiple sheets are used, they will be accompanied by an index sheet at a scale of one inch [1"] equals four hundred [400'] showing the entire subdivision and adjacent streets.

The Plan shall be designated as a "Preliminary Plan, Open Space". The purpose is to form a clear basis for discussion of the proposed subdivision and preparation of the Definitive Plan.

The plan should contain the following:

- a. The names of the record owner of the land and the applicant, owner and the name of the Registered Professional Landscape Architect or Land Planner, and the Registered Professional Engineer and Surveyor who made the plan.
- b. The names of all abutters, as determined from the most recent local tax list.
- c. Major feature of the land, such as existing walls, fences, buildings, large trees, wooded areas, outcroppings, ditches, waterways, natural drainage courses and swamps that exist in or near the site at the time of survey and titled "Open Space Preliminary Plan".
- d. The existing and proposed lines of streets, ways, easements and any public common areas within the subdivision.
- e. The proposed system of drainage, including adjacent existing natural waterways, in a general manner.
- f. The approximate boundary lines of proposed lots, with approximate areas and dimensions.
- g. The names, approximate location and widths of adjacent streets.
- h. The topography of the land in a general manner.
- i. The profiles of existing grades and approximate proposed finished grades of the roadways, drainage, and water facilities.
- j. The proposed system for the supply of water.
- k. The proposed system for sewer and/or subsurface sewage disposal.
  - If the means of sewage disposal is a tie-in to the municipal sewer system, the Conventional subdivision plan shall be submitted to the DPW to obtain verification that the Town's sewer system and treatment facility has adequate capacity to accommodate the sewage flow that will be generated by the proposed development.
  - In non-sewered areas, the applicant shall submit a soils test data report from a certified Soil Evaluator, including deep hole and percolation test results for each conventional lot, showing that the soils would be suitable for the construction of a subsurface sewage disposal system, for an equivalent size dwelling, in full compliance with Board of Health and Massachusetts Title 5 requirements.
  - If the means of sewage disposal is a shared system (as defined by Section 15.290 of the Massachusetts Environmental Code, Title 5), the capacity of the system shall not exceed the flow capacity of the individual on-lot disposal system combined, as determined previously. The applicant shall submit deep hole and percolation test results, along with a preliminary system design and supporting technical documentation to the Board of Health sufficient for the Board of Health to make a determination that the shared system can meet all of the design, construction, and operational requirements of Title 5.
  - If the total sewage flow from the conventional lots is greater than 10,000 gallons per day and the means of sewage disposal includes an on-site treatment and in ground disposal system, the applicant must obtain a Groundwater Discharge Permit from the Department of Environmental Protection in order to substantiate the number of conventional lots that can be serviced.
- l. The proposed system for fire protection.
- m. Provision for open space in accordance with the of Upton Zoning By Laws, Section III, Subsection I.
- n. Indication of all easements, covenants or restrictions applying to the land and their purposes, whether or not within the subdivision.

- O. In order to assist in the determination of buildable lots under Section II.G of these rules and regulations. The following table shall be titled and shown on the index sheet or equivalent of the subdivision plan as submitted: (the values listed below are for example only)

Calculated Buildable Area Per Lot

	A	B	C	D	E
Lot No.	Total Area Square Feet	Area in Wetlands Square Feet	Area in Easement Square Feet	Area in Wetland & Easement. SF	% Buildable (A-D) / A = E
1	40,000	0	2,000	2,000	90%
2	50,000	8,000	2,500	10,500	79%

- Foote note: Easement values to include access and/or drainage easements only.

- p. Such other documents and information as the Planning Board may request.

**3. Approval**

After making a decision, but within the forty-five (45) day time limit, both the Planning Board and the Board of Health shall each notify the applicant and the Town Clerk by certified mail of its approval, approval with modifications or disapproval, as the case may be.

- No Register of Deeds shall record a preliminary plan.
- A developer has no right to appeal from the action on a preliminary subdivision plan.
- The Planning Board's disapproval of a preliminary plan does not authorize the Board to refuse to receive a definitive plan properly submitted.
- Failure of either board to take action does not mean approval of the preliminary plan.

A definitive plan must be submitted within seven (7) months after submission of the preliminary plan and must be evolved from it to retain exemptions from zoning changes and amendments to the subdivision rules and regulations.

**4. Fees**

- A non-refundable filing fee will be paid to the Town of Upton (see Appendix).
- Any person who files a Preliminary Plan with the Planning Board shall pay an engineering review fee, (see appendix). To the extent that the engineering review fees paid upon filing of a Preliminary Plan shall prove to be insufficient to pay for the evaluation and review of the Preliminary Plan by independent engineers hired by the Planning Board, and/or pay for clerical, publication, and all other related costs, the developer shall pay all invoices submitted to him by the Planning Board within thirty [30] days. The unexpended balance shall be returned to the subdivider when approval or disapproval is issued.

## **B. Definitive Plan, Subdivision**

### **1. General**

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

#### **1.1 Application**

- a. An original drawing of the Definitive Plan and twelve [12] contact prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval.
- b. A properly executed application Form C and Form D (see Appendix) including the time within which the subdivider or applicant agrees to complete the ways and install the public utilities in the subdivision, and approval of all plans shall be upon the condition that all ways shown thereon and public utilities required by the Board shall be completed and installed within the time so specified. The Board may decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the public utilities aforesaid within two [2] years from the date of approval of the Definitive Plan. If the ways in any subdivision are not completed and the utilities aforesaid are not installed within the time so agreed by the applicant or so required by the Board, no such way shall thereafter be laid out, constructed, completed or opened for public use unless and until a new application is filed with and approved by the Board. Ways, or portions thereof, not completed within two years from the date of the application shall thereafter be completed in accordance with the then in force design and construction standards of the Planning Board.

#### **1.2 Fees**

- a. A non-refundable filing fee will be paid to the Town of Upton (see Appendix).
- b. Any person who files a Definitive Plan with the Planning Board shall pay an engineering review fee (see Appendix). To the extent that the engineering review fees paid upon filing of a Definitive Plans shall prove to be insufficient to pay for the evaluation and review of the Definitive Plans by independent engineers hired by the Planning Board, and/or pay for clerical, publication, and all other related costs. The developer shall pay all invoices submitted to him by the Planning Board within thirty [30] days. The unexpended balance shall be returned to the subdivider when the covenant or bond is issued.

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

### **2. Contents**

The Definitive Plan shall be prepared by a registered professional engineer and land surveyor registered in Massachusetts and shall be clearly and legibly drawn in black line or blue line on white bond paper. The plan shall be at a scale of one-inch [1"] equals forty feet [40'] or such other scale as the Planning Board may accept to show details clearly and adequately. Sheet sizes shall not exceed twenty-four inches by thirty-six inches [24" x 36"], dimensions may be adjusted to fit local system.

If multiple sheets are used, they will be accompanied by an index sheet at a scale of one inch [1"] equals four hundred [400'] showing the entire subdivision and adjacent streets with dimensions of the lots and streets. Also lot numbers and street numbers, as assigned by the Upton Town Clerk, shall be shown.

The Definitive Plan shall contain the following information:

- a. Subdivision name, boundaries, benchmark, north point, date, scale and zoning classification.
- b. Name and address of record owner, applicant, subdivider, engineer, and surveyor.
- c. Names and location of all abutters as they appear in the most recent tax list.
- d. Major feature of the land, such as existing walls, fences, buildings, large trees, wooded areas, outcroppings, ditches, waterways, natural drainage courses and swamps that exist in or near the site at the time of survey.
- e. Lines of existing and proposed streets, ways, lost easements, and public or common areas within the subdivision. The proposed names of proposed streets shall be clearly shown as "proposed only" until they have been approved by the Planning Board.
- f. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground. This shall include the lengths and bearings of the plat and boundary lines of all subdivision lot lines including lot frontage on the streets, of the boundary lines of all streets and easements, and the length, radii, tangents and central angles of all curves in lot lines, street lines and easements. All angle points, or intersections of tangents along the street lines shall be shown. Areas of lots with lot numbers and areas of other adjoining land of applicant not included in the subdivision will be shown.
- g. Location of all permanent monuments properly identified as to whether existing or proposed.
- h. Location, general direction, names and present widths of streets or ways bounding, approaching or within reasonable proximity of the subdivision, showing both roadway widths and right-of-way widths.
- i. Indication of all easements, covenants or restrictions applying to the land and their purposes, whether or not within the subdivision.
- j. If the property that comprises the subdivision or any part of boundary thereof has been examined, approved, and confirmed by the Massachusetts Land Court, such information shall be noted on the plan with the case number and other pertinent reference to Land Court Procedure, and the same requirements shall apply to any adjoining parcels of land.
- k. Suitable space to record the action of the Planning Board and the signatures of the member of the Planning Board (or officially authorized person).

(Items l through s may be submitted on the same sheet as the Definitive Plan or on separate sheets)

- l. Existing profiles on the exterior lines and proposed profile on the centerline of proposed streets at a horizontal scale of one inch [1"] equals forty feet [40'] and vertical scale of one inch [1"] equals four feet [4'], or such other scales acceptable to the Planning Board. At least two benchmarks are to be shown on plans and profiles, and grade elevations at every fifty foot [50'] station, except on vertical curves, which shall be at every twenty-five foot [25'] stations. All existing and proposed intersections shall be shown with all proposed grade elevations calculated. Elevations are to be referred to the National Geodetic Vertical Datum (NGVD) of 1929. Gradient shall be shown by figure expressed in percent.
- m. Size and location of existing and proposed water supply mains and their appurtenances, hydrants, sewer pipes, and their appurtenances and/or sewage disposal systems including data on boring and percolation test made (and date), storm drains and their appurtenances and easements relative thereto, dimensions of gutters, and method of carrying water to the nearest water course or easement for drainage as needed, whether or not within the subdivision. If the surface water drains will discharge into adjacent existing streets or onto adjacent properties not owned by the petitioner or subdivider, the latter shall clearly indicate what course the discharge will take, and shall present to the Board evidence from the Department of Public Works or the owner of adjacent property that such discharge is permitted by public or private ownership of adjacent street or property.
- n. Location and species of proposed street trees and trees to be retained with trunks over three inches [3"] in diameter, measured six inches [6"] above the finished ground level, located within twenty feet [20'] of the street right-of-way line of existing or proposed streets. Location of and identification of areas where trees are to be removed in the course of site preparation, construction, or landscaping.

- o. Calculations prepared by a Registered Professional Engineer must be submitted to substantiate proposed drainage structures. All drainpipe sizes shall be designed for a twenty-five [25] year frequency storm. The entire drainage system must implement “Best Management Practices” and meet the current Department of Environmental Protection “Storm Water Management Policy”. A detailed “Operation and Maintenance Plan” shall be submitted with each drainage design. All drainage structures shall meet the Town of Upton Department of Public Works standards.
  - 1. **Retention basins are not permitted unless specifically requested by the Planning Board; and**
  - 2. **Detention basins shall not have side slopes greater than a 4:1 ratio.**
- p. Location of proposed streetlights and sidewalks.
- q. Cross-section typical of each street or roadway to be constructed. Cross-sections are also required for any cut or fill in the roadway layout, which exceeds five feet [5’] in depth. At least one cross-section shall be provided for each one hundred feet [100’] of road length where cuts or fills exceed five feet [5’] in depth.
- r. All lot numbers with corresponding house numbers.
- s. In tabular form for each sheet of the subdivision plan as submitted:
  - 1. The area which is being subdivided on each sheet
  - 2. The total area of lots on each sheet
  - 3. The areas dedicated or to be used for street purposes, drainage, sewer or utility easements on each side.
  - 4. The areas reserved for parks, schools, open space, etc. on each sheet.  
(Item 2, 3 and 4 should equal one for each sheet)
- t. The proposed system for fire protection.
- u. Provision for open space in accordance with Section IV-K of these rules and regulations.
- v. In order to assist in the determination of buildable lots under Section II.G of these rules and regulations, the following table shall be titled and shown on the index sheet or equivalent of the subdivision plan as submitted: (the values listed below are for example only)

Calculated Buildable Area Per Lot

	A	B	C	D	E
Lot No.	Total Area Square Feet	Area in Wetlands Square Feet	Area in Easement Square Feet	Area in Wetland & Easement. SF	% Buildable (A-D) / A = E
1	40,000	0	2,000	2,000	95%
2	50,000	8,000	2,500	10,500	79%

- Footnote: Easements values to include access and/or drainage easements only.

w. Such other documents and information as the Planning Board may request.

**3. Review by Board of Health as to suitability of the land.**

At the time of filing of the Definitive Plan, the Subdivider shall also file with the Board of Health two [2] contact prints of the Definitive Plan, dark line on white background. The Board of Health shall within forty-five [45] days after the filing of the plan report to the Planning Board in writing approval or disapproval of said plan. If the Board of health disapproves said plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefor in such report, and, where possible, shall make recommendations for the adjustment thereof. Every lot shall be provided with a sewerage system satisfactory to the Board of Health and the Planning Board before a building on it is occupied.

#### **4. Reviews by Other Town Officials**

The Clerk of the Planning Board will transmit copies of the Definitive Plan to town officials other than the Board of Health as follows,

The Selectmen, Town Counsel, and the Building Inspector shall each receive one [1] copy for review of easements and arrangements. The Department of Public Works shall receive two [2] copies for review.

Before the Definitive Plan is approved, the Planning Board will obtain written statements for the above Officials that the proposed improvements are laid out to their satisfaction in the following respects (or, if thirty-five [35] days have elapsed since transmittal of the Definitive Plan by the Clerk of the Planning Board to the officials without such written approval, approval will be assumed):

- a. The Selectman and Town Counsel as to street names, form of easements, covenants and performance guarantees.
- b. The Department of Public Works as to the design of the street system, location of easements, monuments, street lights, drainage system and it's appurtenances.
- c. The Department of Public works as to the construction of water mains and connections.
- d. The Department of Public Works as to the construction of public sewers and connections.

#### **5. Studies and Reports**

##### **5.1 Soils and Subsurface Water Survey**

Where appropriate, the Planning Board may require soil surveys and subsurface water surveys to establish the suitability of the land for the proposed water supply, sewerage system and proposed storm and sanitary drainage installation regarding both impact on the proposed subdivision, surrounding land, and town services.

##### **5.2 Submission of a Traffic Impact Report**

The Planning Board may require a developer of a subdivision, townhouses, garden apartments, condominiums or a planned unit development to submit a traffic impact report on the impact of the project has or will have regarding the effect of the proposed subdivision, etc. on the congestion, safety, or overall travel convenience on adjacent streets.

A traffic impact report shall contain data and information regarding the additional traffic generated from the proposed subdivision, etc., proposed access points and characteristics of the adjacent public streets, to include, but not be limited to: capacity, width, sight distances, alignment, turning data, accident information, condition of pavement (including shoulders), etc.

##### **5.3 Submission of and Environmental Impact Report**

The Planning Board may require a developer of a subdivision; townhouses, garden apartments, condominiums or a planned unit development to submit an environmental impact report on the impact the project has or will have regarding damage to the environment. Damage to the environment shall mean any destruction, damage or impairment, actual or probable, to any of the natural resources of the town and shall include but not be limited to: air pollution, water pollution, improper sewage disposal, pesticide pollution, excessive noise, impairment and eutrophication of rivers, streams, flood plains, lakes, ponds, or other surface or subsurface water resources, destruction of wetlands, open spaces, natural areas, parks or historic districts or sites.

An environmental impact report shall contain: detailed statements describing the nature and extent of the proposed work and its environmental impact; all measures being utilized to minimize environmental damage; any adverse short-term and long-term environmental consequences which cannot be avoided should the work be performed; alternatives to the proposed action and their environmental consequences and such other information as maybe requested by the Planning Board.

## **6. Subdivision Standards for the Flood Plain District**

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

- a. The proposal is designed so as to minimize the risk of damage due to flooding;
- b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed so as to minimize or eliminate the risk of damage due to flooding;
- c. Adequate drainage systems are provided in order to reduce exposure to flood hazards;
- d. Base flood elevation data (the level of the 100 year flood) is provided for all proposals for development within the Flood Plain District.

## **7. Public Hearing**

Before approval of the Definitive Plan is given, the Planning Board shall hold a public hearing. Notice of such hearing shall be given by the Planning Board at least fourteen [14] days prior thereto by advertisement in an official publication, or in a newspaper of general circulation in the Town of Upton. A copy of said notice shall be mailed by the applicant at his own expense by certified mail return receipt requested to all owners (as appearing in the most recent tax list) of land abutting upon the subdivision, or lying within one hundred feet [100'] of any tract of land of the applicant, any part of which is included in the proposed subdivision. The Board may, as a condition of granting a permit under M.G.L., Chapter 41, Section Eighty-One Y, impose reasonable requirements designed to promote the health, convenience, safety and general welfare of the community and to benefit the Town. In such event, the Board shall endorse such conditions on the plan to which reference is made on such plan and which shall for the purpose of the subdivision control law be deemed to be a part of the plan.

Prior to the start of the public hearing the applicant shall submit to the Board a list of the current abutters. The Town Assessor of Taxes, from the most recent tax list, shall generate the abutter list. The applicant shall also submit to the Board the certified mail return receipt from the public hearing notice mailing.

## **8. Performance Guarantee**

Before endorsement of the Board's approval of a Definitive Plan of subdivision, the subdivider shall agree to complete the required improvements specified in Section V for any lots in a subdivision, such construction and installation to be secured by one, or in part by one and in part by the other, of the following methods which may from time to time be varied by the applicant with the written consent of the Planning Board;

- a. Approval with bonds or surety

The subdivider shall file a performance bond or a deposit of money or negotiable securities in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements specified in Section V not covered by a covenant under Subsection "b" below. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Town Counsel and as to sureties by the Town Treasurer and shall be contingent on the completion of such improvements within two [2] years of the date of the bond.

- b. Approval with covenant

The subdivider shall file a covenant, executed and duly recorded in the Registry of Deeds by the owner of record, running with the land, whereby such ways and services as specified in Section V, not covered by bond or deposit under Subsection "a" above, shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed.

## **9. Reduction of Bond Survey**

The penal sum of any such bond, or the amount of any deposit held under Section “8a” above, may, from time to time, be reduced by the Planning Board and the obligations of the parties thereto released by said Board in whole or in part. If release is by reason of covenant, a new plan of the portion to be subject to the covenant may be required.

## **10. Release of Performance Guarantee**

Upon the completion of improvements required under Section V, security for performance of which was given by bond deposit or covenant, or upon the performance of any covenant with respect to any lot, the applicant shall by hand delivery or registered mail deliver to the Town Clerk a written statement in duplicate that the said construction or installation in connection with which such bond, deposit or covenant has been given has been completed in accordance with the requirements, and the Town Clerk shall forthwith furnish a copy of said statement to the Planning Board. If the Planning Board determines that said construction or installation has been completed, it shall notify the Town Treasurer in writing that it releases the interest of the town in such bond or deposit; and that such bond or deposit shall be returned to the person or persons who furnished same, or in the case of covenant it shall issue a written release of the covenant suitable for recording. However, the Town shall hold ten percent [10%] of the value of the bond for one [1] year after completion of construction or until the Town accepts the streets, whichever comes first. Prior to releasing the Town’s interest in a performance bond or deposit or covenant, the Planning Board shall receive from the applicant the following written statements or approval; or fifteen [15] days shall elapse after the request for said approval without action:

- From the Department of Public Works as to construction of all ways and sidewalks, installation of monuments, street signs, light, gutters and curbs, required grading and drainage, planting and seeding.
- From the Board of Health as to the installation of sewage disposal facilities.
- From the Department of Public Works as to the installation of water facilities.
- From the Department of Public Works as to the installation of public sewer facilities.

If the Planning Board determines that said construction or installation has not been completed, it shall specify to the applicant, in writing, by registered mail, the details wherein said construction and installation failed to comply with requirements contained under Section V. Upon failure of the Planning Board to act on such application within forty-five [45] days after the receipt of the application by the Town Clerk, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such covenant shall become void.

In the event that said forty-five [45] day period expires without such specification, or without the release and return of the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

## **11. Certificate of Approval**

The action of the Planning Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by hand delivery or registered mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for its action and shall rescind such disapproval when the plan has been amended to conform to the rules, regulations and recommendations of the Planning Board. Final approval, if granted, shall be subject to the design and construction specifications contained herein and shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Planning Board (or by the signature of the person officially authorized by the Planning Board) but not until the statutory twenty [20] day appeal period has elapsed following the filing of the certificate of the action of the Planning Board with the Town Clerk and said Clerk has notified the Planning Board that no appeal has been filed, After the Definitive Plan has been approved and endorsed, the Planning Board shall return the original to the applicant.

The Planning Board may extend the sixty [60] day period permitted by statute between submission of a Definitive Plan and action thereon upon written request of the applicant.

Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision.

## SECTION IV. DESIGN STANDARDS

### A. Streets

#### 1. Location

- a. All streets in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel and an attractive street layout in order to obtain the maximum safety and amenity for future residents of the subdivision.
- b. The proposed street shall conform, so far as practicable, to any existing plans of the Planning Board and, when adopted by the Planning Board to the Master or Study Plan or parts thereof adopted.
- c. Provision satisfactory to the Planning Board shall be made for the proper projection of streets, or for access to adjoining property, which is not yet subdivided.
- d. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips shall be in the public interest.
- e. All subdivisions of greater than five [5] lots shall have at least two points of roadway access to presently existing public ways.

#### 2. Alignment

- a. Street jogs with centerline offsets of less than one hundred fifty feet [150'] shall be avoided whenever practicable.
- b. The minimum centerline radii of a curved street shall be as follows;
  - Minor Streets one hundred and fifty feet [150']
  - Secondary Streets two hundred and fifty feet [250']
  - Major Streets three hundred and fifty feet [350']
- c. A tangent at least one hundred and fifty feet [150'] in length shall separate all reverse curves on major and secondary streets except where at least one [1] radius is five hundred feet [500'] or more.
- d. Property lines at street intersections shall be rounded or cut back and run parallel with the curb radius of not less than thirty feet [30'].
- e. Streets shall be laid out so as to intersect at intervals, which will permit block size to be in a range of six hundred feet [600'] to twelve hundred feet [1,200'] in length, unless otherwise specified by the Planning Board. In lieu of actual construction of a cross street, in special instances the Planning Board may approve an easement for a future street.

#### 3. Width

- a. The minimum width of rights-of-way shall be as follows;
  - Minor and Secondary street: Fifty feet [50']
  - Major streets and such Secondary streets, which in judgment of the Planning Board may in the future be changed in character to become a major street: sixty feet [60']
- b. When a minor street will provide the only access for lots fronting on a length in excess of five hundred feet [500'], or where on a major street potential volume is such to warrant it, the Planning Board may require a greater right-of-way than that specified above.

#### 4. Grade

- a. The centerline grade for any street shall not be less than five-tenths of one percent [0.5%]
- b. The maximum centerline grade for streets shall be as follows;
  - Minor Streets eight percent [8%]
  - Secondary Streets eight percent [8%]
  - Major Streets five percent [5%]
- c. Where changes in grade exceed one percent [1%], the grades shall be connected by vertical curves of sufficient length to afford the following minimum stopping sight distances; two hundred feet [200'] for Minor Streets; three hundred feet [300'] for Secondary Streets; and as determined by the Department of Public Works for Major Streets.
- d. Where changes in grade exceed one percent [1%], reasonable vertical curves, as required by the Department of Public Works, will be provided; and where a grade is five percent [5%] or greater within one hundred and fifty feet [150'] of the intersection of street right-of-way lines, there shall be provided a leveling areas of at least seventy-five feet [75'], with a maximum grade of three percent [3%].

#### 5. Dead-end Streets

- a. Dead-end streets shall not be longer than five hundred feet [500']. The Planning Board may in its discretion allow a cul-de-sac of up to seven hundred and fifty feet [750'] if in its opinion such length does not pose any safety concerns and the developer has addressed all issues of emergency vehicle access, increased maintenance, and safety. No cul-de-sac shall exceed seven hundred and fifty feet [750']. No cul-de-sac shall provide access to more than six [6] lots.
- b. Dead-end streets 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 and twenty feet [120'], unless otherwise specified by the Planning Board.
- c. The unpaved portion of a cul-de-sac shall be prepared and seeded in the same manner as "Grass Plots", Section V.F, except with the approval of the Planning Board where trees or shrubs exist or are planted, or where natural desirable features exist. Where, in the opinion of the Planning Board, it may be desirable to extend the cul-de-sac in the future, an easement of at least fifty feet [50'] in width shall be provided for this purpose. Provisions shall be made so that when a dead-end street is extended, land in a cul-de-sac beyond the normal right-of-way width shall be deeded to the owner of abutting lots.
- d. All cul-de-sacs shall have a maximum grade of 5%.
- e. The standard cross section is to be redrawn and amended to reflect: 4 to 1 side slopes; location of hydrants eight feet [8'] from the curb; and a three inch [3"] binder coat and a one and a quarter inch [1.25"] top coat.

#### B. Curbs and Gutters

1. Unless otherwise specified by the Planning Board, curbs shall be provided along each edge of the roadway(s).
2. Unless otherwise specified by the Planning Board, gutters shall be provided at intersections and along each edge of the roadway(s) where the grade exceeds three percent [3%] but is less than five percent [5%].
3. Driveways shall be constructed in accordance with the requirements of the Department of Public Works. Driveways shall include a paved apron that is at least eighteen feet [18ft] wide and be a length of twenty feet [20ft] from the edge of the road pavement with at least a three-foot [3ft] radius at the intersection with the road pavement.
4. Driveway cuts shall not be within fifty-five feet [55ft] of the intersection of the centerline of intersecting streets.
5. Curbs shall be sloped granite curbing that is five inches [5in] by eighteen inches [18in], see appendix.

### **C. Sidewalks**

1. Sidewalks shall be provided the full length of each side of each street and shall be five feet [5'] in widths, except as follows  
In a subdivision in which the average lot size exceeds one acre, sidewalks need be provided on one [1] side of Secondary and Minor Streets. However, no reduction shall be made in the required right-of-way.
2. Around a cul-de-sac a sidewalk needs be provided on one [1] side only, the exterior side.
3. When sidewalks are provided, proper access shall be provided at intersections and in cul-de-sacs in complete compliance with the American with Disabilities Act (ADA) and requirements of the Massachusetts Architectural Access Board.

### **D. Grass Plots**

1. A grass plot shall be provided on each side of each roadway between the pavement and sidewalk areas and shall occupy all the remaining area between the pavement and sidewalk areas.
2. Utility poles and street lights shall, and shade trees may, be located in the grass plot, but shall not be nearer than twenty-five feet [25'] from the intersection of two streets, measured from the intersection of the tangents of the intersecting streets.

### **E. Trees**

1. Street trees of a species approved by the Planning Board shall be planted on each side of each street in a subdivision, except where the Definitive Plan showed trees to be retained which are healthy and adequate. Such trees shall be located at approximately seventy-five feet [75'] intervals and shall be at least twelve feet [12'] in height.
2. The subdivider shall plant other trees as needed to provide at least one [1] area of shade to each lot.

### **F. Monuments**

Monuments shall be installed at all street intersections, at all points of change in direction, grade or curvature of streets, and at all other points where, in the opinion of the Planning Board, permanent monuments are necessary.

### **G. Street Signs and Names**

1. Street signs shall be provided at each intersection and shall include a sign for each street at that intersection. Street signs shall meet or exceed the requirements of the Department of Public Works and be installed in accordance with the latest edition of the manual on Uniform Traffic Control Devices.
2. The developer is required to obtain a list of prospective street names from Upton Historical Commission.
3. Street names shall be approved by the Planning Board to prevent duplication and to provide names in keeping with the character of the Town.

### **H. Street Lights**

1. Street lights shall be of the type and style in general use in the Town of Upton unless otherwise specified by the Planning Board and shall be located in the grass plots provided in Subsection "D" above at such intervals as required by the Selectmen.

## **I. Disposal of Surface and Sub-Surface Water**

1. Adequate disposal of surface and sub-surface water shall be provided and catch basins shall be provided on both sides of the roadway at intervals not to exceed four hundred feet [400'] unless otherwise provided by the Planning Board, at all low points and intersections and at such other places as deemed necessary by the Department of Public Works and the Planning Board, to assure the unimpeded flow of all natural watercourses, to assure adequate drainage of all low points and to provide proper run-off of storm water. In no instance shall catch basins be located along a driveway cut.

## **J. Easements**

1. Easements for utilities carrying underground wires, where required, or for utilities across lots or centered on rear of side lot lines shall be provided where necessary and shall be at least thirty feet [30'] wide.
2. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, the Planning Board may require that there be provided a storm water easement or drainage right-of-way of adequate width and proper side slope.
3. Access easements to park and conservation land owned by the Town shall be provided, if required by the Planning Board, and shall be at least thirty feet [30'] wide.

## **K. 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 the area in relation to the land being subdivided and to the prospective uses of such land. The Planning Board may by appropriate endorsement on the plan require that no building be erected upon such park or parks without its approval for a period of three [3] years. Each area reserved for such purpose shall be of suitable area, dimensions, topography and natural character for the purposes of a park and/or playground. Each such area shall be so located as to serve adequately all parts of the subdivision as approved by the Planning Board. The Planning Board may require that the area or areas reserved shall be located and laid out in conjunction with similar areas of adjoining subdivisions or of probable subdivisions. All areas to be reserved for park and/or playground purposes shall contain not less than one [1] acre or shall be part of a similar area in an adjoining subdivision so that the total area is not less than one [1] acre. Unless otherwise specifically approved by the Planning Board, the total amount of area to be reserved for park and/or playground purposes shall be no less than ten percent [10%] of the gross area of the subdivision. Any land so reserved shall be graded to dispose properly of surface water and shall be left in condition for the purpose intended, as required by the Planning Board. The open space shall be held by a not - for - profit corporation or homeowners association. All property owners within the subdivision shall be members of the association or corporation and shall share in the expense of maintaining the open space. The Planning Board, in its discretion may require that the open space be dedicated to the Town if warranted by the area and location of the open space. The Planning Board may require Town Counsel to review any proposed treatment of open space.

## **L. Lot Drainage**

Lots shall be prepared and graded in such a manner that development of one shall not cause detrimental drainage on another; if provision is necessary to carry drainage to or across a lot, and easement or drainage right-of-way of adequate width and proper side slope shall be provided.

## **M. Underground Wires**

Telephone and electric wires and all utilities shall be installed underground. The developer will take all necessary steps to insure that all utilities, with the exception of gas piping, are available and functional for use by the residents of the subdivision.

**N. Town Water and Sewer Services**

In cases where town water and sewer services have not yet been extended to the subdivision, town houses, garden apartment, condominium or planned unit development proposed by the developer, the Planning Board shall require unless specially waived the developer to extend town water and sewer services, including, but not limited to, all pipes and mains, and the proportionate cost of any additional facilities such as wells, pumping stations or treatment plants or systems, which may be required as a result of extension of town services, at the developer's expense, to and throughout the proposed subdivision, town houses, garden apartment, condominium or planned unit development. In the event that the developer does not build all facilities or systems required under this subparagraph, the developer will deposit into a separate account to be held by the Town, the amount of money that the Planning Board determines it will cost to construct the required systems and facilities. Any funds held under this subparagraph will be used only for the construction of such facilities or systems.

**O. Improvements to Adjacent Streets**

In cases where the streets adjacent to the proposed subdivision, townhouse, garden apartment, condominium, or planned unit development do not appear, in the discretion of the Planning Board, to be adequate to handle the traffic to be created by the proposed development, the Planning Board may require the developer to widen or otherwise improve the adjacent streets, at the developer's expense.

## **SECTION V REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVISION**

### **A. General**

1. Unless otherwise specified, all the work and the materials used in the work to be done shall conform to the requirements of the Commonwealth of Massachusetts, Department of Public Works, Standard Specifications for Highways and Bridges (the "Standard Specifications"), current edition, hereinafter referred to as the Standard Specifications as amended, and the Special Provisions included hereinafter,
2. Certain specifications or special provisions shall supplement the aforesaid Standard Specifications and apply particularly to the work done hereunder. References in the following specifications, unless otherwise stated, are to be the aforesaid Standard Specifications. In case of conflict between these certain specifications or special provisions and the aforesaid Standard Specifications and special provisions shall take precedence and shall govern.
3. To facilitate reference, the following paragraphs are noted with an underlined paragraph number, which references a particular section in the Standard Specifications, which pertains to the respective subsection in these regulations.
4. Wherever in the Standard Specifications or other contractual documents, the following terms, or pronouns in place of them are used, the intent and meaning shall be interpreted by substitution as follows:
  - "Commonwealth" = Town of Upton
  - "Department Engineer" = Director of Public Works = Superintendent of Streets = Road Commissioner
5. The extent of work required is as shown approximately upon approved plans, and in compliance with the Standard Cross Section Plans (see appendix), stakes shall be set which will indicate the exact amount of cut or fill.
6. As each construction operation is completed, the Department of Public Works and/or official Planning Board Representative previous to starting work in the succeeding operation shall approve it.
7. At the time a street or way or portion thereof is ready for acceptance and to facilitate acceptance by the Town of Upton, the developer shall have prepared and certified by a Registered Land Surveyor a "Plan of Acceptance" drawn in black line or blue line on white bond paper showing widths, lengths, bearings of all boundary lines of streets and easements of radii, tangents and central angles of all curves in street lines. It shall show that all permanent bounds have been set according to plans and specifications. A blank space (4"x 8") shall be provided on the lower right hand corner of the plan for a title block to be filled in by the Planning Board. The surveyor shall place a certification of the plan stating, "the street (or way or portion thereof) is laid out and the bounds have been set as shown on this plan" and shall be dated, signed and the surveyor's stamp affixed thereon. The plan shall be submitted to the Planning Board.
8. The developer will have the original plans and profiles that were submitted to the Planning Board and that are on file in the Planning Board office, corrected and certified by his Engineer to show the actual as built locations and grades of all utilities and roadway profile and any changes authorized by the Planning Board.

### **B. Street and Roadway**

1. Roadways shall be constructed for the full length of all streets within the subdivision and shall have the same curb radius required in Section IV, Subsection A.2. The centerline of all roadways shall coincide with the centerline of the street right-of-way unless the Planning Board approves a deviation. The minimum of roadways shall be as follows:
  - Minor Streets-twenty-six feet [26']
  - Secondary Streets- thirty feet [30'] except in a subdivision in which the average lot size is an acre or more the roadway may be reduced to twenty-six feet [26'].
  - Major Streets- thirty- six feet [36'] except in a subdivision in which the average lot size is an acre or more the roadway may be reduced to thirty-two feet [32']. If in the opinion of the Planning Board, volume generated by other areas of the town using such street exceeds the limits of a thirty-two foot (32') roadway, the roadway should be forty feet [40'].

2. The roadway shall be graded and prepared for pavement as follows: (Applicable reference to the Standard Specifications is provided below for each item.)
  - a. 101.00 Clearing and grubbing of the entire area of such street or way shall be performed to remove all stumps, brush, roots and like material which may exist upon the surface. All stumps shall be removed by grinding or shall be removed from the subdivision. Burial of stumps within the subdivision shall not be permitted.
  - b. 120.00 Roadway earth excavation shall be removed of all unsuitable materials encountered down to the true surface of the sub-grade, in preparation of foundation of roadway, sidewalks, driveways and berms. Approved materials such as gravel and loam obtained in the excavation may be used in fills as required if, in the opinion of the Department of Public Works, they are suitable.
  - c. 150.00 When in the opinion of the Department of Public Works, suitable material is not available within the limits of the highway location to form the sub-grade or sub-base, the Contractor shall obtain such additional material from sources in accordance with this section and as may be approved by the Department of Public Works.
  - d. 170.00 The sub-grade 20 ½ “ for minor streets and 26 ½ “ for secondary and major streets below the finished surface grade shall be prepared true to the lines, grades and cross-sections given and properly rolled. All soft or spongy or other unsuitable material below the sub-grade surface shall be removed to a depth determined by the Department of Public Works, and the space thus made shall be filled with special gravel borrow, containing no stones over six [6] inches in their largest diameter.
  - e. 401.00 A gravel sub-base or foundation containing no stones having any dimensions greater than three (3) inches shall be spread on the surface of the sub-grade to a minimum depth of twenty-four (24) inches for secondary and major streets in conformity with the requirements of Section M1.03.0 for furnishing gravel borrow. Placement and compaction shall be in six [6] inch lifts.
  - f. 401.60 Fine grading, rolling and finishing including the shaping, trimming, and rolling and finishing of the surface of the sub-base prior to application of gravel for surfacing of the roadway and base courses for walks or loam for berms shall be in accordance with this section as directed by the Department of Public Works.

At the conclusion of this step the roadway shall be staked in all locations permanent monuments are to be installed as provided in subsection 7.13 of the Standard Specifications.

3. 460.00 The wearing surfaces of roadways shall be of Class I bituminous concrete pavement, Type I-1. This type of pavement shall be composed of mineral aggregate, mineral filler and bituminous material, plant mixed and laid hot. The pavement shall be constructed in two courses with a binder coat upon prepared surface of at least three inches [3”] in depth after rolling, and in conformity with lines, grades and typical cross-section shown on plans. The topcoat shall be at least one and a quarter inch [1.25”] in depth after rolling. Material and construction methods shall conform to all other requirements of Section B-18 of the Standard Specifications, except that no such construction shall be undertaken before March 30 of any year nor after November first of any year without written permission of the Planning Board and the Department of Public Works.
4. Embankments outside the right-of-way shall be evenly graded and pitched at a slope of not greater than four [4] horizontal to one [1] vertical in fill. Where cuts are made in ledge, other slopes may be determined with the approval of the Planning Board and the Department of Public Works. Where terrain necessitates greater slopes, retaining walls, terracing, fencing, or rip-rap may be used either alone in or combination to provide safety and freedom from maintenance, but must be done in accordance with plans filed with the Planning Board and approved by the Department of Public Works. Whenever embankments are built in such a way to require approval by the Planning Board and the Department of Public Works, the subdivider must furnish to the Town duly recorded access easements for maintenance of the slopes, terraces, or retaining walls. All such slopes shall be grassed in accordance with the specifications above for the area between the roadway and sidewalk or roadway and boundary of the right-of-way.

### **C. Utilities**

1. Water mains, wells and their appurtenances shall be installed in accordance with the rules of the Department of Public Works in order to supply each lot with an adequate water supply for domestic use approved by the Planning Board, and respectively, by the Board of Health and for fire protection approved by the Fire Chief.
2. 140.00 Excavation for structures including foundations for drains, sewers and water pipes, walls and other structures shall be made to the depth as indicated on plans. Rock excavation designated as Class B, encountered in trench excavation shall be removed as directed by the Department of Public Works.
3. 200.00 All drain, sewer, gas and water pipes and other structures shall be installed upon the completion of roadway sub-grade and before the placing of the sub-base, gravel-base course, sidewalks or pavement.
4. Pipes, manholes and catch basins for the disposal of surface and sub-surface water shall be provided according to the sizes and depths as indicated on the plan and in conformity with the requirements of Sections 200.00, 220.00, and 230.00 of the Standard Specifications. The standard depth of catch basins shall be four feet [4'] below invert of lowest drain. Manholes shall be constructed to the required depth of each junction point and as shown on the plan. No more than four [4] pipe drains shall be connected to any drain manhole. Pipe culvert and pipe drains shall be in conformity with the requirements of Section 230.00 for installation of pipes. Cement concrete pipe and reinforced concrete pipe (used on all cross drains under pavements) shall be installed according to the size as shown on the plans. No back filling of pipes shall be done until the installation had been inspected by the Department of Public Works. All drainage trenches except cross drains shall be filled with clean gravel borrow in accordance with specification 760. All cross drain trenches shall be back filled with selected material satisfactory to the Department of Public Works.
5. On site sewage disposal facilities shall be installed and constructed in conformity with the rules, regulations and requirements of the Board of Health and the Planning Board when appropriate.
6. Installation of telephone and electric lines and all utilities shall be underground.
7. Where adjacent property is not subdivided or where all property of the applicant is not being subdivided at the same time, provision shall be made for the extension of the utility system by continuing the mains the full length of streets and to the exterior limits of the subdivision, at such grade and size which will, in the opinion of the Planning Board, permit their proper extension.

### **D. Sidewalks**

1. 700.00 Bituminous concrete sidewalks having a minimum thickness of three inches [3"] after compaction shall be constructed on a six-inch [6"] gravel foundation to the required lines and grades in accordance with these specifications. The contractor may install a machine formed bituminous concrete curb, cross-section to be approved by the Department of Public Works in place of berm, if desired.
2. 700.00 If desired, Granolithic sidewalks shall be constructed as directed by the Department of Public Works in conformity with this section of the Standard Specifications.

### **E. Curbs and Gutters**

Installation of curbs, gutters, or integral rolled curb and gutter shall be in accordance with the specifications of the Department of Public Works.

### **F Grass Plots**

The slope of the grass plot shall be shown on the profiles and standard cross-section and preparation and seeding of the plots shall be in accord with Section 765.00 of the Standard Specification.

#### **G. Trees**

1. Trees shall be planted in accordance with the requirements of the Department of Public Works.
2. Removal and disposal of trees not intended for preservation shall be as designated by the Department of Public Works.

#### **H. Monuments**

Monuments shall be standard permanent Portland cement, concrete or granite square markers approved by the Department of Public Works and installed at the time of final grading with the top flush with the top final graded surface, according to the specifications of the Department of Public Works.

#### **I. Street Signs and Street Lights**

Street signs and streetlights shall be installed according to the standards and specifications of the Department of Public Works.

## **SECTION VI. ADMINISTRATION**

### **A. Variation**

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

### **B. Reference**

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

### **C. Building Permit**

1. No building shall be erected within a subdivision without written permission from the Planning Board.
2. The Building Inspector shall not issue any permit for the erection of a building until he is first satisfied that the lot on which the building is to be erected is not within a subdivision or that a way furnishing the access to such lot as required by the subdivision control law is shown on a plan recorded or entitled to be recorded under Chapter 41 Section 81X, as amended and that any condition endorsed thereon limiting the right to erect or maintain buildings on such lot have been satisfied, or waived by the Board, and in the event that the Board has by rule or regulation required that not more than one building for dwelling purposes be erected or placed or converted to use as such on any lot without its consent, that the Building Inspector is satisfied that such consent has not been obtained.. Chapter 41 Section 81Y, and the amendments thereto.
3. Regardless of whether or not the developer has filed a performance bond or deposited money or negotiable securities pursuant to Section III B 7 to cover the cost of improvements, no building permit shall be issued and no building shall be erected until the road has been completed through the point of laying and compacting a binder coat of class I bituminous concrete pavement type I-1, as specified in Section V.

### **D. Inspection**

1. The subdivider shall arrange for inspections with the proper Town Official and/or Planning Board Representative prior to the construction of streets and the installation of utilities and during construction as specified herein at each significant construction stage.
2. Inspection shall be requested in writing at least forty-eight [48] hours in advance of each inspection to the proper Town Official and/or Planning Board Representative and a copy of each request shall be sent to the clerk of the Planning Board.
3. Inspection shall be for the following: (see appendix)
  - Satisfactory erosion control
  - Satisfactory excavating
  - Satisfactory filling
  - Satisfactory laying of water mains
  - Satisfactory compacting
  - Satisfactory completion of the pavement
  - Satisfactory finish grading of grass plots
  - Satisfactory placing of curbs and gutters
  - Satisfactory construction of sidewalks
  - Satisfactory installation of sanitary sewers and related equipment or on-site disposal systems
  - Satisfactory installation of surface and subsurface drainage system and related equipment
  - Satisfactory installation of monuments.
4. The Planning Board may establish the order of the required inspections and may require satisfactory completion of one step before the subdivider proceeds to the next. It may require tests to be done by the subdivider as a condition for approval when in the opinion of the Planning Board it is advisable.

5. The proper inspection official shall indicate on Form P (see appendix) provided by the subdivider, the date of inspection, remarks and if appropriate the approval of the inspected items. Form P shall be filed with the Planning Board.
6. Any subdivider who executes an approved Definitive Plan shall pay for inspection fees. To the extent that the engineering review fee shall prove to be insufficient to pay for the evaluation, review, inspection, supervision and all other related costs associated with the construction of the subdivision, town houses, garden apartments, condominium or planned unit development and all other improvements. The subdivider shall pay all invoices submitted to him by the Planning Board within thirty [30] days. The unexpended balance shall be returned to the subdivider upon final acceptance of the subdivision.

#### **E. Validity**

The invalidity of any section or provision of this regulation shall not invalidate any other section or provision thereof.

#### **F. Submission of Plans - In General**

Whenever an applicant submits or files an application and/or plan to the Planning Board, it shall be submitted to the Clerk of the Planning Board at a regular meeting of the Planning Board. The Clerk of the Planning Board shall not accept any plan:

1. Which is not submitted at a regular meeting.
2. For which the fee is not paid.
3. Which fails to include all materials required by these regulations, for example, the failure to file drainage calculations along with a Definitive Plan.

#### **G. Open Space Development – In General**

1. Before final approval by the Planning Board of an Open Space Definitive Subdivision Plan, the applicant will have prepared for conveyance a clear title of the designated open space parcel(s) to the organization that will hold and manage the open space parcel(s).
2. The Planning Board shall not release any lot(s) until the designated open space parcel(s) have been conveyed and deeded to the organization that will hold and manage the open space parcel(s).
3. Permanent monuments shall be installed on the boundaries clearly marking the open space parcel(s).

#### **H. Snow Plowing and Sanding on Unaccepted Public Ways**

Upon the occasion of a snow and/or ice event requiring the Town to snow plow and/or sand the Town accepted public ways, the owner and/or applicant shall snow plow and/or sand unaccepted public ways within their subdivision in a timely fashion. In the event that the owner and/or applicant fails to snow plow and/or sand unaccepted public ways within their subdivision in a timely fashion, the Town may do so at the owner's and/or applicant's expense when so ordered by a Town Selectman or when in the opinion of the DPW Director, Police Chief, Fire Chief, or EMS Director it becomes a matter of public safety.

Upon the occupancy of one or more single family residences or residence units within a subdivision, it is the responsibility of the owner and/or applicant to insure that arrangements are made to snow plow and/or sand unaccepted public ways [roads] within their subdivision in a timely fashion to ensure that the residents and emergency vehicles have safe, unimpeded access to and from an existing Town accepted public way. The surface area of the unaccepted public way shall be maintained at a condition equal to or better than Town accepted public ways.

In the event the Town deems it necessary to snow plow and/or sand the unaccepted public ways, the owner and/or applicant will be charged as follows: the minimum charge will be \$1,000.00 per event and the maximum charge to be the number of lots on the unaccepted public way multiplied by \$250/lot per event. The owner and/or applicant shall pay all invoices in full, with respect to snow plowing and sanding, submitted to them within fifteen [15] days.