

# SUDIVISION REGULATIONS TOWN OF SHELBURNE

## SECTION I AUTHORITY

Pursuant to the authority vested in the Shelburne Planning Board by the voters of the Town of Shelburne on March 9, 1971 and in accordance with the provisions of Chapter 36; Sections 19-29 and 34, of the New Hampshire Revised Statutes Annotated, 1955, the Shelburne Planning Board adopts the following regulations governing the subdivision of land in the Town of Shelburne, New Hampshire.

## SECTION II PURPOSE AND APPLICABILITY

The purpose of these regulations is to provide for the orderly present and future development of the Town by promoting the public health, safety, convenience and welfare of its residents.

The Zoning Ordinances, including the Preamble, of the Town of Shelburne are made part of these Subdivision Regulations.

No subdivision of land within the Town of Shelburne shall occur except in compliance with these regulations.

These regulations apply to Planning Board review and approval or disapproval of all subdivisions as defined by RSA 672:14 and to minor lot line adjustments or boundary agreements. They do not apply to voluntary mergers as defined by RSA 674:39-a.

## SECTION III DEFINITIONS

A) **Abutter:** Means:

- 1) Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board;
- 2) Any affected municipalities and the regional planning commission(s) in the event of developments having regional impact.
- 3) For purposes of receiving testimony only, and not for purpose of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.
- 4) For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B: 3, XXIII.

B) **Access Management:** The control of driveway and street connections to public roadways in order to manage traffic flow and safety, preserve the carrying capacity of the road and implement coordinated land use and transportation plans.

C) **Applicant:** Means the owner of record of the land to be subdivided, or his\her designated agent.

D) **Application, Complete:** Means a final plat and all accompanying materials including application and service fees as required by these regulations.

E) **Approval:** Means recognition by the Planning Board, certified by written endorsement on the plat,

that the plat meets the requirements of these Regulations and in the judgment of the Board satisfies all criteria of good planning and design.

- F) **Approval, Conditional:** Means recognition by the Planning Board, certified by written endorsement on the plat, that the plat is not finally approved nor ready for filing with the Registry of Deeds until such time as certain conditions, set forth by the Board, are met. This is not to be confused with a plat that has been approved *subject to certain conditions* that would be met as part of the implementation of the plan.
- G) **Board:** Means the Planning Board of the Town of Shelburne, New Hampshire .
- H) **Easement:** Means the authorization by a property owner for the use by another, and for a specific purpose, of any designated part of his/her property.
- I) **Frontage** The distance that a front yard borders on a public street or a street that has been approved by the Planning Board in a subdivision.
- J) **Lot** A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.
- K) **Lot of Record** Means a parcel, the plat or description of which has been recorded at the county register of deeds.
- L) **Lot Line Adjustment** Means adjustments to the boundary between adjoining properties, where no new lots are created.
- M) **Plat:** Means the map, drawing or chart on which the plan of subdivision is presented to the Board for approval, and which, if approved, will be submitted to the County Register of Deeds for recording.
- N) **Public Hearing:** Means a meeting, notice of which must be given per RSA 675:7 and 676:4,I (d), at which the public is allowed to offer testimony.
- O) **Public Meeting:** Means the regular business meeting of the Planning Board as required per RSA 673:10. Notice must be posted at least 24 hours in advance and the meeting must be open to the public, although participation by the public is at the discretion of the Board.
- P) **Right of Way(s):** Are as follows
- 1) A strip of land acquired by reservation, dedication, forced dedication, prescription, or condemnation and intended to be occupied by a road, crosswalk, railroad, electric transmission lines, oil or gas pipeline, water line, sanitary storm sewer, and other similar uses.
  - 2) Generally, the right granted to one to pass over the property of another.
- Q) **Setback** The distance between the nearest portion of the building or structure and the property line
- R) **Sewage Disposal System (Individual)** Means any on-site sewage disposal or treatment system that receives either sewage or other wastes, or both. For the purposes of this regulation, this means all components of the system, including the leach field.

- S) **Site Development:** Means any construction or grading activities on real estate for other than agricultural and silvicultural (tree care and harvesting) practices.
- T) **Street** Means a publicly approved road maintained for vehicular travel, or a road that appears on a subdivision plat approved by the Planning Board. The word “street” shall include the entire right-of-way designated for it.
- U) **Subdivision** The division of a lot, tract, or parcel of land into two or more lots, plats, sites or other division of land for the purpose, whether immediate or future, of sale or building development. It includes re-subdivision and when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.
- V) **Subdivision, Major** Means a subdivision of four (4) or more lots, or one which involves the creation of new streets and/or utilities, regardless of the number of lots.
- W) **Subdivision, Minor** Means a subdivision of land into not more than three (3) lots for building development purposes, with no potential for resubdivision on an existing street; or one which does not involve the creation of new streets and/or utilities.
- X) **Subdivision, Technical** Means a subdivision of land into two lots or sites for the purpose of conveying one such lot or site directly to an abutting landowner. The parcel to be conveyed does not constitute a separate building lot; however, said parcel may be used for building development in conjunction with contiguous land owned by the abutter.

## SECTION IV GENERAL REQUIREMENTS FOR SUBDIVISION OF LAND

- A. **Character of Land for Subdivision:** Land of such character that it cannot, in the judgment of the Board, be safely used for building development purposes because of exceptional danger to health or peril from fire, flood, poor drainage, excessive slope, or other hazardous conditions, shall not be platted for residential, commercial, or industrial subdivision, nor for such other uses as may increase danger to life or property, or aggravate the flood hazard.
- B. **Premature Subdivision:** The Board may provide against such scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, sewage disposal, drainage, transportation, schools, fire protection, or other public services which necessitate the excessive expenditure of public funds for the supply of such services.
- C. **Preservation of Existing Features:** Wherever feasible, suitable steps shall be taken to preserve and protect significant existing features such as trees, scenic points, stone walls, rock outcroppings, water bodies, and historic landmarks.

## SECTION V SUBDIVISION REVIEW PROCEDURES

- A. **Conceptual Consultation**
  - 1) The applicant may request a meeting with the Board to discuss a proposal in conceptual form and in general terms. Although this phase is strictly optional, the Board strongly suggests that the

applicant avail him/herself of the opportunity to resolve any issues at this early stage that might become a problem later on. Such preapplication consultation shall be informal and directed toward:

- a) *Reviewing the basic concepts of the proposal.*
  - b) *Reviewing the proposal with regard to the master plan and zoning ordinance.*
  - c) *Explaining the state and local regulations that may apply to the proposal.*
  - d) *Determination of the proposal as a major, minor, or technical subdivision, and of the submission items that would be required.*
- 2) Conceptual consultation shall not bind the Applicant or the Board. Such discussion may occur without formal public notice, but must occur only at a posted meeting of the Board

**B. Design Review Phase**

- 1) Prior to submission of an application for Board action, an applicant may request to meet with the Board or its designee for non-binding discussions beyond the conceptual and general stage, involving more specific design and engineering details of the potential application.
- 2) A request for “Design Review” must be submitted to Board fifteen (15) days prior to the Boards next regularly scheduled meeting.
- 3) A rough sketch of the site shall be provided, showing:
  - a) *Location of lot lines;*
  - b) *Lot measurements;*
  - c) *All existing streets, roads, shared driveways, and driveways (showing the edge of traveled way and right of way line), utilities, and permanent water bodies within 500 feet of the area submitted for approval including 100 year flood limit line, if established.*
  - d) *List of abutters*
- 4) The design review phase may proceed only after notification, as set forth in Section (IV) Paragraph (I ) (found on page 6).
- 5) Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action eventually taken on the application.

**c. Submission of Completed Application**

- 1) A completed application shall be delivered by the applicant to the Planning Board only at its regular monthly meeting. A completed application shall consist of all data required in Section VI of these regulations.
- 2) At the next meeting for which notice can be posted – or 30 days from the date of delivery – the Board will determine whether the application is complete. (If the application is incomplete, the applicant will need to resubmit under a new notification procedure.)

- 3) Acceptance of an application shall only occur at a meeting of the Planning Board after due notification has been given according to Section (IV) Paragraph (I). Acceptance will be by affirmative vote of a majority of the Board members as stated in the Board's Rules and Procedures..
- 4) Once an application has been accepted as complete by the Board, the 65-day review period begins.

**D. Board Action on Completed Application**

- 1) The Board shall begin consideration of the Completed Application upon acceptance. The Board shall act to approve, conditionally approve, or disapprove the Completed Application within 65 days of acceptance .
- 2) The Board may apply to the Selectmen for an extension not to exceed an additional 90 days before acting to approve, conditionally approve or disapprove an application. An applicant may waive the requirement for Board action within the time periods specified in these regulations and consent to such extension as may be mutually agreeable.
- 3) Approval of the application shall be certified by written endorsement on the Plat and signed and dated by a majority of the Board. If any application is disapproved, the grounds for such disapproval shall be adequately stated in the records of the Planning Board and in written notice given to the Applicant within **144 hours** of the decision.
- 4) An approved plan shall be recorded by the Planning Board with the Coos County Register of Deeds of within 90 days of approval. (Any subdivision plan not filed within this timeframe due to the applicants failure to pay fees or post bond shall be considered void.)

**E. Failure of the Planning Board to Act**

- 1) In the event that the Planning Board does not act on an accepted application within the prescribed time period, the applicant may petition the Selectmen to issue an order directing the Planning Board to act within 30 days.
- 2) If the Planning Board fails to act within 40 days of receiving this directive from the Selectmen, the Selectmen must approve the application unless they find in writing that the plan does not comply with a local regulation. In the event the Selectmen fail to act, the applicant may petition superior court to approve the plan.

**F. Conditional Approval**

The Board may grant conditional approval of an application, but the plat will not be signed or recorded until all of the conditions have been met. If the applicant has not complied with the conditions of approval within one (1) year, the approval is considered null and void and the applicant must submit a new subdivision application. A further public hearing is not required when such conditions:

- 1) Are administrative in nature;
- 2) Involve no discretionary judgment on the part of the Board;

- 3) Involve the applicant's possession of permits and approvals granted by other boards or agencies, such as the Department of Transportation, the Wetlands Board, or Water Supply and Pollution Control Division; however, any subsequent change to the plan required by such approvals would constitute grounds for a new application process.

**G. Expedited Review**

- 1) The Planning Board may allow for an expedited review of applications for lot line adjustments, technical subdivisions or minor subdivisions, as defined in Section III of these regulations.
- 2) The application may be submitted, accepted as complete and voted on at the same meeting, provided the public notice so indicates.
- 3) The Board may waive certain plat requirements for lot line adjustments, minor and technical subdivisions at written request of the applicant.

**H. Public Hearing**

Prior to the approval of an application, a public hearing shall be held. Public hearings may be waived for lot line adjustments

**I. Notification**

- 1) Notice of a Design Review, formal submission of an application, or a Public Hearing shall be given by the Board to the abutters, the applicant, holders of conservation, preservation or agricultural preservation restrictions, and every engineer, architect, land surveyor or soil scientist whose professional seal appears on any plat.
- 2) Notice shall be by certified mail, mailed at least ten (10) days prior to the submission. The public will be given notice at the same time, by posting at the (Town Hall) and the (Transfer Station), and publication in the (Local Newspaper).
- 3) The notice shall give the date, time, and place of the Planning Board meeting at which the application will be formally submitted to the Board, shall include a general description of the proposal which is to be considered, and shall identify the applicant and the location of the property.
- 4) If the notice for the public hearing was included in the notice of submission or any prior notice, additional notice of the public hearing is not required. Additional notice is not required of an adjourned session of a hearing provided that the date, time, and place of the adjourned session was made known at the prior meeting.

**J. Fees**

- 1) The applicant shall be responsible for all fees incurred by the processing of applications. Failure to pay such costs shall constitute grounds for the Board to not accept the application as complete.
- 2) Upon formal submission of the application, the costs for:

- a) The application fee of \$50.00 per lot
  - b) The costs of mailings and newspaper notification.
- 3) It shall be the responsibility of the applicant to pay fees for special investigative studies, environmental assessments, legal review of documents, administrative expenses and other matters which may be required to make an informed decision on a particular application. Payment shall be made prior to the Boards action on a completed application.
  - 4) Upon approval of the application, the following items are due. ( The plat will not be filed until they are received or if applicable posted with the Town Clerk)
    - a) Cost of making changes to the Town's tax maps;
    - b) The cost of recording the subdivision plat (mylar) with the Register of Deeds.
    - c) Notice of receipt of any required Bonds by the Town Clerk

**κ. Site Inspections**

- 1) Whenever the Board deems it necessary to visit the site for the consideration of an application, the Board shall arrange a time that is reasonable for the applicant.
- 2) Such a site inspection shall be posted as a meeting of the Board pursuant to the provisions of RSA 91-A. If there is a quorum present at the site inspection, minutes shall be kept.
- 3) All applications are conditioned upon the owner allowing access to the property, to the extent reasonable and necessary to properly review the application. Denial of access automatically terminates any further consideration of the proposal.

**λ. Concurrent and Joint Hearings**

The applicant or the Planning Board may request a joint hearing with one or more land use boards in conjunction with a subdivision hearing if approval from all boards is required for the same project.

**SECTION VI SUBMISSION REQUIREMENTS**

A completed application shall consist of the following items unless a written request by the applicant for waiver(s) is granted by the Board:

**α. A completed application form, accompanied by:**

- 1. Names and addresses of all abutters, taken from the town records not more than five (5) days before the day of delivery,
- 2. Names and addresses of all persons whose name and seal appears on the plat;
- 3. Names and addresses of all holders of conservation, preservation or agricultural

preservation restrictions on the property or abutting properties;

4. Payment to cover fees specified on the application form;
5. One (1) mylar and three (3) paper copies of the Plat, prepared according to the standards of the NH Land Surveyors Association and the Coos County Register of Deeds, as follows:
  - a. Plats shall be at any scale between 1"= 20' and 1"=100' . The Board may approve larger scales if required for a specific project.
  - b. The outside dimensions of the plat shall be 22" X 34", or as otherwise specified by the Coos County Registry of Deeds.
  - c. The material composition shall be suitable for electronic scanning and archiving by the Registers of Deeds.
  - d. All plats shall have a minimum ½" margin on all sides.
  - e. All title blocks should be located in the lower right hand corner, and shall indicate:
    - 1) Type of survey
    - 2) Owner of record
    - 3) Title of plan
    - 4) Name of the town(s)
    - 3) Tax map and lot number
    - 4) Plan date and revision dates;
6. A letter of authorization from the owner, if the applicant is not the owner.

**B. The plat shall show the following information:**

1. Proposed subdivision name or identifying title; name and address of the applicant and of the owner, if other than the applicant.
2. North arrow, scale (written & graphic), date of the plan; name, license number and seal of the surveyor or other person whose seal appears on the plan.
3. Signature block for Planning Board endorsement.
4. Locus plan showing general location of the total tract within the town and the zoning district(s).
5. Boundary survey including bearings, horizontal distances and the location of permanent markers. Curved boundary lines shall show radius, delta, and length. Non tangent curve boundary lines shall show cord, bearing and distance.
6. Names of all abutting subdivisions, streets, easements, building lines, parks and public places, building outlines and similar facts regarding abutting properties within 200 feet of the proposed subdivision.

7. Location of all property lines and their dimensions; lot areas in acres. Lots numbered according to the Town tax map numbering system.
8. Location and amount of frontage on public rights-of-way.
9. Location of building setback lines.
10. Location of existing and proposed buildings and other structures.
11. Location of all parcels of land proposed to be dedicated to public use.
12. Location and description of any existing or proposed easements.
13. Existing and proposed water mains, culverts, drains, sewers; proposed connections or alternative means of providing water supply and disposal of sewage and surface drainage.
14. Existing and proposed streets with names, classification, travel surface widths, right-of-way widths. (See Appendix A for road standards.)
15. Final road profiles, center line stationing and cross sections.(See Appendix A for road standards.)
16. Location and width of existing and proposed driveways.(See Appendix A for driveway standards.)
17. Water courses, ponds, standing water, rock ledges, stone walls; existing and proposed foliage lines; open space to be preserved; and any other man-made or natural features.
18. Existing and proposed topographic contours based upon the USGS topographical data, with spot elevations where necessary. **Note:** NH DES requires at least five (5) foot contours on all lots less than 5 acres. (The Board may require detailed topographic data in some instances because of slope and lot size)
19. Wet Area delineation (see Appendix B).
20. Location of percolation tests and test results and outline of 4,000 square-foot septic area with any applicable setback lines;
21. Location of existing and proposed well, with 75-foot or greater (if required by NHDES) well radius on its own lot.
22. Base flood boundaries or elevations based on FEMA maps for land in Special flood hazard areas

**c. Other Information**

- 1) Plan for Stormwater Management and Erosion Control, if applicable (See Section VII).
- 2) State subdivision approval for septic systems; septic design approval where applicable; or

certification by septic designer of adequacy of existing system.

- 3) Alteration of Terrain Permit from NH Department of Environmental Services.
- 4) State/Town driveway permit(s), as applicable.
- 5) Report from the Fire Chief, Police Chief, and/or Town Conservation Commission.
- 6) All deeds covering land to be used for public purposes, easements and rights-of-way over property to remain in private ownership, and rights of drainage across private property, submitted in a form satisfactory to the Board's counsel.
- 7) Deed restrictions; these are normally private matters to be enforced via civil or equitable lawsuits by private landowners, and not by the municipality; however, the existence of (and apparent compliance with) private deed restrictions may have an effect on Planning Board consideration of an application. Failure of the Board to consider or enforce private deed restrictions does not estop or bind the municipality with regard to matters within its jurisdiction.
- 8) Any other state and/or federal permits. The burden is on the applicant to comply with all applicable state and/or federal laws and regulations. Failure of the Board to consider compliance with state and/or federal laws and regulations on matters not within the municipality's jurisdiction does not estop or bind the municipality with regard to matters within its jurisdiction.
- 9) Any additional reports or studies deemed necessary by the Board to make an informed decision, including but not limited to: traffic, school, fiscal, soil delineation, environmental impact analyses and extended wet areas delineations. The Board reserves the right to request such information after an application has been accepted as complete, as well as before acceptance.

Should the Board after receiving a written request from the applicant determine that some or all of the above-described information will not to be required, the Board shall notify the applicant in writing within ten (10) days of the meeting at which the determination was made.

## **SECTION VII. SUBDIVISION DESIGN STANDARDS**

### **A. Lots**

1. Areas set aside for parks and playgrounds to be dedicated or reserved for the common use of all property owners shall be of reasonable size and character for neighborhood playgrounds or other recreational uses.
2. Lots shall be laid out and graded to eliminate flood or stagnant water pools. No water shall be permitted to run across a street on the surface, but shall be directed into catch basins and pipe(s) underground.(See Appendix A –Road and Driveway Standards)

**B. Streets and Driveways:**

Streets and driveways shall be designed and constructed in accordance with the standards outlined in (Appendix A) of these regulations .

**C. Reserve Strips:**

Reserve strips of land that show an intent on the part of the subdivider to control access to land dedicated or to be dedicated to public use (such as a road) shall not be permitted .

**D. Fire Protection**

Applications for new subdivisions shall be required to address water supply needs for fire protection. The Fire Chief shall review all proposals to determine whether or not water supply should be addressed for that particular proposal; if so, the following requirements apply:

1. The Fire Chief shall complete an inspection of the proposed site to evaluate the availability of existing water supply in the area.
2. The Fire Chief shall implement all applicable provisions of the National Fire Prevention Association's Standard on Water Supplies for Suburban and Rural Fire Fighting.
3. The Fire Chief shall determine the type, location and spacing of any water supply (such as fire ponds, cisterns, etc.)
4. Following the inspection and evaluation, the Fire Chief will submit his findings in writing to the Planning Board.
5. All proposed developments, whether including the provision of hydrants or other water supply facilities, shall be accessible to firefighting and other emergency equipment.

**E. Septic systems and Water Supply**

1. On new lots of less than five (5) acres, test pits shall be as required by NHDES and at least one (1) percolation test shall be required within the 4,000 square-foot area designated for a leach field. The subdivider shall be required to provide the necessary equipment and labor for the making of these tests. All test pits will be read and logged by a licensed septic system designer. The results will be reported to the Town.
2. In subdividing parcel(s) with existing dwelling(s), the applicant must demonstrate to the satisfaction of the board that the existing septic system is (are) in working order.
3. All new wells shall have a radius of seventy-five (75) feet or greater if required by NHDES, said radius to be located entirely on its lot. When that cannot be accomplished, the protective radius shall be maximized to the extent practicable. The 75-foot radius may extend over the property line(s) with the written consent of the owner recorded on an easement form approved by NHDES and duly recorded at the Coos County Registrar of Deeds.

**F. Stormwater Management and Erosion Control**

1. The applicant shall submit a stormwater management and erosion control plan when one or more of the following conditions are proposed :
  - a. *A cumulative disturbed area exceeding 20,000 square feet.*
  - b. *Construction of a street or road.*
  - c. *A subdivision involving three or more dwelling units.*
  - d. *The disturbance of critical areas, such as steep slopes, wet areas, floodplains .*
2. Standard agricultural and silvicultural practices are exempt from this regulation. Should a question arise as to the practices the Board may rely on “Good Forestry in the Granite State” by New Hampshire Forest Sustainability Standards Work Team or may use such resources as the Coos County Forester or the Coos County extension service USDA).
3. All stormwater management and erosion control measures in the plan shall adhere to the “Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire”, published by the Rockingham County Conservation District, and the “Model Stormwater Management and Erosion Control Regulation”, by the NH Association of Conservation Districts, Water Quality Committee.
4. The applicant shall bear final responsibility for the installation, construction, and disposition of all stormwater and erosion control measures required by the Board or other agency. Site development shall not begin before the plan is approved.

**G. Surveys**

All surveys shall be prepared according to the minimum standards for land instrument surveys adopted by the NH Board of Licensure for Surveyors.

In the case of applications that involve large acreages from which one building lot is being subdivided, the Board may, upon written request, waive the requirement for a complete boundary survey, when it is apparent that the remaining lot can meet existing frontage requirements and is suitable for building.

**H. Monumentation**

1. Monuments shall be set at all lot corners. Monuments shall be set at all points of curvature and all points of tangent for surveying purposes
2. Monuments shall be of a style approved by the NH Board of Licensure for Surveyors
3. If the subdivision involves the construction of a roadway, all monumentation shall be in place before 50% of the surety held for the construction is released. If no road construction is involved, all monumentation must be in place prior to the signing of the plat by the Board.
4. Monuments may be required to be tied in to a public street intersection, a U.S.G.S.

benchmark, the Federal Base Network, or other recognized existing monument.

## **SECTION VIII DEVELOPMENTS HAVING REGIONAL IMPACT**

- A.** All applications shall be reviewed for potential regional impacts (see appendix C). Upon such a finding, the Board shall furnish the regional planning commission(s) and the affected municipalities with copies of the minutes of the meeting at which the determination was made. The copies shall be sent by certified mail within 72 hours of the meeting.
- B.** At least 14 days prior to the scheduled public hearing, the Board shall notify by certified mail the regional planning commission(s) and the affected municipalities of the date, time and place of the hearing, and of their right to appear as abutters to offer testimony concerning the proposal.

## **SECTION IX PREVIOUSLY-APPROVED SUBDIVISIONS**

If any land shown on a subdivision plat has been part of any previous subdivision approved, constructed, or created by conveyance no more than four (4) years prior to the new proposal, any such previous subdivision will be treated as part of the new proposal for purposes of analyzing its effect and applying all review criteria.

## **SECTION X SPECIAL FLOOD HAZARD AREAS**

Requirements for subdivisions having land designated as “Special Flood Hazard Area” (SFHA) by the National Flood Insurance Program (NFIP)

- A.** The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.
- B.** The Board shall require that all subdivision proposals and other proposed new developments greater than 5 acres, include within such proposals Base Flood Elevation (BFE) or Boundary data .
- C.** Subdivisions with any development within a SFHA shall submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow determination that:
  - 1) All such proposals are consistent with the need to minimize flood damage;
  - 2) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
  - 3) Adequate drainage is provided so as to reduce exposure to flood hazards.

## **SECTION XI PERFORMANCE GUARANTEE**

- A.** As a condition of approval, the Board shall require the posting of a security in an amount sufficient to defray the costs of construction of streets and public utilities. The amount of the

security shall be based on an estimate of costs provided by the subdivider and, at the discretion of the Planning Board, reviewed by a licensed engineer. All costs of such review shall be paid by the applicant.

- B. The security shall be approved by the Board, who may consult with municipal counsel. The amount of the security shall include fees to cover the cost of periodic inspections.
- C. Where electric lines or other utilities are to be installed by a corporation or public utility, a letter of intent shall be required stating that the work will be done in reasonable time and without expense to the Town.
- D. Each approved plat shall contain a time limit for the completion of streets and public improvements. The performance guarantee may be released in phases as portions of the secured improvements or installations are completed and approved by the Board or its designee, in accordance with the plan approved by the Board. In the case of road construction, the Board may require that the security stay in place until one full year has passed after completion of the road.

## **SECTION XII            REVOCATION OF PLANNING BOARD APPROVAL**

An approved and recorded subdivision plat may be revoked by the Board in whole or in part, under the following circumstances: (1) at the request of or by agreement with the applicant; (2) when any requirement or condition of approval has been violated; (3) when the applicant has failed to perform any condition of approval within the time specified or within four years; (4) when four years have elapsed without any vesting of rights and the plan no longer conforms to applicable regulations; or (5) when the applicant has failed to provide for the continuation of adequate security.

## **SECTION XIII            ADMINISTRATION AND ENFORCEMENT**

- A. These regulations shall be administered by the Planning Board. The enforcement of these regulations is vested with the Selectmen.
- B. No subdivision regulation or amendment, adopted under RSA 674:35-42, shall be legal or have any force and effect until copies of such are filed with the Town Clerk.
- C. **Waivers:** The requirements of these regulations may be waived or modified when, in the opinion of the Board, specific circumstances surrounding subdivision, or the condition of the land in such subdivision, indicate that such modifications will properly carry out the purpose and intent of the master plan and these regulations. Requests for waivers are discouraged, and must be submitted in writing, including all of the reasons for the requested waiver. Approvals of waivers must be in writing.
- D. **Penalties and Fines:** Any violation of these regulations shall be subject to a civil fine as provided in RSA 676:16 and 676:17, as amended. Violations of these regulations may also be enforced through other remedies within N.H. RSA 676:15, et seq.

## **SECTION XIV APPEALS**

Any person aggrieved by a decision of the Planning Board concerning a plat or subdivision may appeal said decision to the superior court pursuant to RSA 677:15, except when a disapproval by the Board is based upon non-compliance with the zoning ordinance, in which case an appeal can be taken to the Board of Adjustment.

## **SECTION XV VALIDITY**

If any section or part of a section or paragraph of these regulations shall be declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section or part of a section or paragraph of these regulations.

In the event of any conflict between these regulations and any other local ordinance, or any state law or regulation, the Master Plan shall be considered in resolving the conflict.

## **SECTION XVI AMENDMENTS**

These regulations may be amended by a majority vote of the Planning Board after at least one (1) public hearing following the notification procedure outlined in RSA 675:7.

## **SECTION XVII EFFECTIVE DATE**

These regulations shall take effect upon their adoption, and all previous regulations or parts of regulations, inconsistent therewith, are hereby repealed.

Adopted July 21, 2004