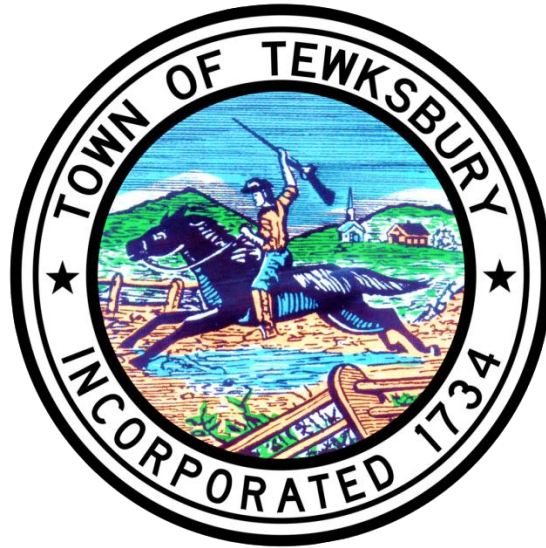


SUBDIVISION RULES AND REGULATIONS



PLANNING BOARD TOWN OF TEWKSBURY

Revised through September 14, 2020

**Tewksbury Department of
Community Development
1009 Main Street
Tewksbury, MA 01876**

**978-640-4370 (Phone)
978-640-4365 (Fax)
www.tewksbury.info**

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PURPOSE OF SUBDIVISION CONTROL LAW

(MGL Chapter 41, Section 81M)

“The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of a Planning Board under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for all travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or bylaws; for securing adequate provisions 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 city or town in which it is located and with the ways in neighboring subdivisions. It is the intent of the subdivision control law that any subdivision control plan filed with the Planning Board shall receive the approval of such Board if said plan conforms to the recommendation of the Board of Health and to the reasonable rules and regulations of the Planning Board pertaining to subdivision of land; provided, however, that such Board may, when appropriate, waive, as provided for in Section 81R, such portions of the rules and regulations as is deemed advisable.”

SECTION 1
AUTHORITY

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

Originally adopted March 9, 1998

SECTION 2

GENERAL

2.1 DEFINITIONS

The definitions of the Subdivision Control Law are incorporated herein (MGL, Ch. 41, S.81L), unless expanded or clarified in the following:

ABUTTER - Property owners of land directly opposite on any public or private street or way and abutters to the abutters within three hundred feet of the property line all as they appear on the most recent applicable tax list.

BOARD - The Planning Board of the Town of Tewksbury.

CUL-DE-SAC STREETS - Local streets open at one end only with special provisions for turning around.

DEAD-END STREETS - Local streets open at one end only without turnaround.

EASEMENT - A right acquired by public authority to use or control property for a utility or other designated purpose.

EMERGENCY ACCESS WAY - A public or private way for secondary emergency access that is not generally available for vehicular travel, with a minimum 20 foot right-of-way, a minimum 10 foot wide paved or gravel surface, three foot shoulders, and posts or gates installed at all entrances. Emergency access ways do not provide frontage.

LOT - An area of land, undivided by any street, in one ownership with definitive boundaries ascertainable from the most recently recorded deed or plan which is: (1) a deed recorded in Middlesex North Registry of Deeds; or (2) a Certificate of Title issued by the Land Court and registered in the Land Court section of such Registry; or (3) title of record disclosed by any and all pertinent public documents.

MUNICIPAL SERVICES - Sewers, storm water drains, water mains, gas pipes, electrical lines, telephone lines, TV cables, fire alarm system, street lights, similar service installations and their respective appurtenances.

PRIVATE DRIVEWAY – A way providing access to one or more lots.

RESTRICTIVE COVENANT - Contract between the subdivider and the Board or other public authority concerning the use of the land inscribed on the definitive plan, or contained in a separate document referred to on the definitive plan.

RIGHT-OF-WAY - Allows for a legal right of passage for people on a defined piece of land. If it is public, it is open to anyone in the public to pass. If it is private, access is controlled and maintenance is the responsibility of the owner of the way.

RULES - The Tewksbury Subdivision Rules and Regulations set forth herein.

SINGLE ACCESS STREET - A cul-de-sac street, a dead-end street, or other street having only one terminus onto a through street and providing access to other cul-de-sac streets, dead-end streets, or streets forming a closed loop or circle.

STREET OR ROAD - A general term denoting a public or private street for purposes of public vehicular and pedestrian travel, including the entire area within the right-of-way.

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

- a. A public street accepted by the Town, the Commonwealth of Massachusetts, or Middlesex County under MGL Ch. 82, or a street which the Town Clerk certifies is maintained and used as a public street, or
- b. A street shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or
- c. A street in existence when the Subdivision Control Law became effective in the Town, having, in the opinion of the Planning Board, sufficient width, suitable grade 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 thereon. Such frontage shall be of at least such distance as is required by the Town Zoning Bylaw.

Conveyances or other instruments adding to, taking away from, or changing the size and shape of lots in such manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the Town, into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.

SUBDIVISION CONTROL LAW - Refers to Sections 81K to 81GG, inclusive, of Chapter 41 of the General Laws and any acts in amendment thereof, on addition thereto or in substitution therefor.

WAY, PATH - A general term denoting a public or private way for purposes of public non-vehicular travel, including the entire area within the right-of-way. Such ways or paths do not provide frontage.

2.2 COMPLIANCE WITH SUBDIVISION CONTROL LAW

These rules contain, for the reader's convenience, either verbatim or in slightly modified form relevant statutory provisions of MGL Ch. 41, the Subdivision Control Law. These rules are intended to comply with the Subdivision Control Law and should be read to incorporate future changes in the Subdivision Control Law. However, many aspects of the subdivision of land are not completely covered by the Subdivision Control Law and these rules contain definitions, procedural requirements, and design standards that are intended to be specific to the Town.

2.3 UNAPPROVED SUBDIVISION PROHIBITED

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvement or sale of lots in a subdivision, or the construction of streets and roads, or the installation of municipal services therein, unless and until a definitive plan of such subdivision has been submitted to and approved by the Board as hereinafter provided.

2.4 COMPLIANCE WITH ZONING BYLAW

All proposed lots within a subdivision shall comply with the Zoning Bylaw of the Town of Tewksbury, Massachusetts.

2.5 COMPLIANCE WITH FEDERAL, STATE, AND LOCAL REGULATIONS

All proposed subdivisions shall comply with all applicable federal, state, and local permits and regulations.

SECTION 3

APPROVAL NOT REQUIRED PLANS

3.1 FILING

Any person or persons who wishes to cause to be recorded in the Middlesex North Registry of Deeds or to be filed with the Land Court a plan of land and who believe that the plan does not require approval under the Subdivision Control Law may submit the plan, seven copies, application (Form A), and \$60.00 per lot to the Board. The applicant(s) must provide the necessary evidence to show that the plan does not require approval. If the plan affects two or more parcels of land not under common ownership, the Planning Board requires that the application (Form A) bear the signature of all affected property owners. The plan will only be accepted at a regularly scheduled meeting of the Planning Board.

Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by the copy of said application. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt thereof.

If the Board determines that the plan does not require approval, it shall forthwith without a public hearing endorse on the plan the words "Approval Under Subdivision Control Law Not Required."

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

If the Board fails to act upon a plan submitted under this section within 21 days after its submission, it shall be deemed to have determined that approval under the Subdivision Control Law is not required.

3.2 FORM OF PLAN

Each plan which is submitted under Article 3.2 of these Rules and Regulations shall be clearly and legibly drawn in black India ink on polyester drafting film. The plan shall show all details clearly and be drawn to a scale of one inch (1") equals 40 feet. The plan shall be accompanied by a Form A (see Appendix A) and a statement advising the Board as to the particular provision of law under which he believes that his plan does not require approval, evidence of such immunity satisfactory to the Board, together with evidence that no violation of the zoning law will occur.

3.3 CONTENT OF PLAN

3.3.1 Each plan shall show:

3.3.1.1 Owner of the land;

3.3.1.2 Name of the person who has prepared the plan;

- 3.3.1.3 Person for whom the plan was prepared;
- 3.3.1.4 Date of the plan; and
- 3.3.1.5 Locus plan.

3.3.2 Each plan shall also contain such information as necessary to identify the land involved and show that the land involved meets one or more of the following requirements:

3.3.2.1 Each lot therein has the required minimum frontage on an approved right-of-way which meets one or more of the criteria enumerated in Section 81L of the MGL, Chapter 41, quoted herein the Section 1.5.1 (see also Section 1.5.11). This required minimum frontage shall be determined by the Zoning Bylaw then in effect.

3.3.2.2 Each lot has standing on it a building or buildings having been standing at the time of inception of Subdivision Control Laws in the Town.

3.3.2.3 The plan is of an already existing lot, parcel, or tract and shows no division thereof, or the plan does show a division, but each lot or parcel not conforming to the Zoning Bylaw or the Rules of the Board Governing the Subdivision of Land shall be marked "Not a Buildable Lot."

3.4 NUMBER OF COPIES

In addition to the polyester drafting film submitted to the Board for signature, seven prints of the plan shall be filed with the Board.

3.5 FEES

A per lot fee from the most recent Planning Board Subdivision Fee Schedule shall be required with all Subdivision Approval Not Required Plans (Form A) submitted to the Planning Board for a determination.

3.6 REQUIREMENTS

3.6.1 Plan of Land for which endorsement is requested must show entire parcel from which a lot is being subdivided. The parcel of property shown must include the entire area of land affected by the creation of the lots as shown on said plan of land.

3.6.2 In addition, the endorsement requested must show the entire parcel from which a lot is being subdivided. The parcel of property shown must include the entire area of land affected by the creation of the lots as shown on said plan of land.

3.6.3 A determination shall be made regarding which of the following categories the request for ANR Endorsement falls under and the appropriate criteria shall be applied accordingly.

3.6.3.1 In order to qualify for endorsement under MGL 41 Section 81P, the following criteria must be met:

3.6.3.1.1 Every lot within the tract divided has sufficient frontage on an approved right-of-way. A lot shall be deemed to have sufficient frontage if it has the frontage specified by the Zoning Bylaw dimensional requirements for the district in which said lot is situated.

3.6.3.1.2 It must be determined that the way is either: 1) A public way or a way which the Town Clerk certifies is maintained and used as a public way; 2) A way shown on the plan theretofore approved and endorsed in accordance with the subdivision control law; or 3) A way in existence when the Subdivision Control Law became effective in the town 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 there on.

3.6.3.2 Endorsement pursuant to Planning Board determination that the plan conforms to exclusion set forth in the definition of “Subdivision” in MGL c. 41 Section 81L which does not, however, fall under the provisions of Section 81P. Two such exclusions are as follows:

3.6.3.2.1 A division of tract of land on which two or more buildings were standing when the subdivision control law went into effect in the town into separate lots on each of which one of such buildings remains standing. Planning Board must act as finder of fact and, therefore, all testimony utilized in making a determination of fact shall be in form of sworn Affidavit and/or sworn testimony before the Board. Board must make a determination that each structure is of a substantial nature and has been used for the purpose existing at the time of the passing of the Zoning Bylaw's continuously through the date of application. Planning Board must agree upon a proper line of division to comply with the requirements.

3.6.3.2.2 Plans, conveyances or other instruments adding to, taking away from or changing the size and shape of lots in such a manner as not to leave any lot so affected without the required frontage. The Board should require that a plan be submitted showing all parcels of land affected and, where appropriate, specify “Not a Buildable Lot.”

3.6.4 All ANR plans shall contain a legend that “Endorsement of this plan does not imply the plan complies with the Zoning Bylaws of the Town of Tewksbury.”

SECTION 4

PRELIMINARY SUBDIVISION CONTROL PLAN

4.1 GENERAL

A preliminary plan for a subdivision may be submitted by the subdivider for discussion, modification, approval or disapproval by the Board. The submission of such a preliminary plan will provide the means for the subdivider, and the Board, to discuss and clarify any of the problems of such a subdivision before a definitive plan is prepared.

4.2 APPLICATION

Any person who wishes to apply for approval of a preliminary subdivision control plan shall:

4.2.1 Seven copies of a properly executed Application for Approval and Preliminary Plan (see Form B). Said plan and application shall be submitted 14 days prior to a meeting date

4.2.2 Submit a preliminary plan filing fee from the most recent Planning Board Subdivision Fee Schedule to cover the expenses, incurred by the Town in reviewing the application. The filing fee shall be submitted in check form and made payable to the "Town of Tewksbury." The filing fee is mandatory and not refundable.

4.2.3 File, by delivery or by registered mail the preliminary plan and application to the Town Clerk.

4.3 FORM AND CONTENTS OF PRELIMINARY PLAN

The preliminary plans shall be drawn by a registered engineer or land surveyor in dark lines on white background, at a suitable scale to fit on a single sheet and it should be properly identified as a preliminary plan. It should show sufficient information about the subdivision to form a clear basis for discussion and for the preparation of the definitive plan. During the discussion of the preliminary plan, the complete information required by the definitive plan, will be developed. The preliminary plan shall contain the following information:

4.3.1 The subdivision name, north point, date, scale, boundaries, legend and title, "Preliminary Plan."

4.3.2 The names and addresses of the record owners, the applicant, and the name of the engineer or surveyor, and their appropriate seal.

4.3.3 Existing and proposed lines of streets, roads, easements wetlands as defined by the Wetlands Protection Act (MGL Ch. 131, S.40) and the Tewksbury Wetlands Protection Bylaw, and any public area within the subdivision in a general manner.

4.3.4 Existing and proposed drainage system, including existing adjacent natural waterways, in a general manner.

4.3.5 The approximate boundary lines of proposed lots, with approximate areas and dimensions.

4.3.6 Names, locations and widths of bounding streets approaching or within 500 feet of the subdivision.

4.3.7 Existing topography of the land, in a general manner.

4.3.8 Site features, such as, but not limited to, existing stone walls, fences, buildings, public shade trees, historic sites, rock ridges and outcroppings, swamps, wetlands and water bodies. Special attention should be given to noting physical features which define the boundaries of the subdivision.

4.3.9 The proposed names of the proposed streets and number on each lot.

4.3.10 A locus map showing the entire subdivision and any abutting property, flood plain district, adjacent streets, as well as the existing zoning of the area and any zoning boundary lines that lie within the area.

4.4 PLANNING BOARD ACTION

The Board may give such preliminary plan its approval with or without modification, or disapproval. Approval does not constitute a waiver of the board's right to require further changes in the plan, or approval of a subdivision.

SECTION 5

DEFINITIVE SUBDIVISION CONTROL PLAN

5.1 PRE-APPLICATION CONSULTATIONS

Pre-application consultations between an applicant and the professional staff of the Town are recommended. The following rules apply for pre-application consultations:

5.1.1 The Town staff may be requested to conduct an interdepartmental review with the applicant prior to the hearing process. Staff may also be requested to review an application for its thoroughness and completeness; however, staff will not be responsible for assuring the accuracy, completeness or thoroughness of any application submitted for review. A site walk with the Town Engineer is required to evaluate the site prior to approval. It is the responsibility of the applicant to assure that the application to be submitted to the Board for its review is thorough, complete and accurate. The applicant is required to submit a letter to certify the definitive plan is complete.

5.2 SUBMISSION OF DEFINITIVE PLAN

Any person submitting a definitive plan of a subdivision or a petition for modification, amendment, or rescission of a subdivision, shall file with the Board, by delivery or registered mail, the following:

5.2.1 Eleven copies and one electronic copy of an Application (Form C) seeking Approval of Definitive Plan.

5.2.2 Filing Fees - Submit a definitive plan filing fee from the most recent Planning Board Subdivision Fee Schedule. The subdivider shall be responsible for all fees incurred by the Board as they pertain to an independent professional engineering review of plans submitted for approval. The filing fees shall be submitted in check form and (exclusive of the engineering review fees) made payable to the "Town of Tewksbury." The filing fee is mandatory and not refundable. The applicant shall be responsible for all advertising related costs as required by the Board.

5.2.3 A complete abutters list certified by the Board of Assessors.

5.2.4 A statement from the developer that he/she will retain the fee in the streets shown on the plan until it has been accepted by the Town. Refer to section 10.8 Acceptance of Roads.

5.2.5 Eleven copies, and one electronic copy of a written list of any requested waivers with reasons why those waivers would permit a superior design, that would be in the public interest and consistent with the purpose and intent of the Subdivision Control Law.

5.2.6 A letter authorizing Town representatives to enter on the subdivision to complete the streets and services if the developer does not complete them according to his obligations.

5.2.7 A letter documenting authorizing vote if the developer is acting in the name of a trust, corporation or company.

5.2.8 A copy of the deed.

5.2.9 A draft restrictive covenant if changes are proposed from the standard forms shown in Appendix A6 - Form E, with reasons for the changes.

5.3 CONTENTS OF DEFINITIVE PLAN

The definitive plan shall be prepared by a registered engineer and land surveyor, clearly and legibly drawn in dark lines on white background. The plan shall be at a scale of 1" = 40'. It must be plainly marked "Definitive Plan." Sheet size shall not exceed 24" x 36". If more than one sheet is needed, the sheets shall be accompanied by a single keyed sheet drawn to a 1" = 200' scale showing the entire subdivision. The definitive plan shall contain, at a minimum, the following information:

5.3.1 Subdivision name and street names. The subdivision name will be the same as the street name if only one street name. Note: The Board of Selectmen to approve the subdivision name and/or street name through an administrative action under Section 12.04.085 of the Town Bylaws.

5.3.2 Boundaries, north point, date, scale, and legend.

5.3.3 Names and addresses of the owner of record, the subdivider, the engineer and land surveyor, the book and page number of the recording of deed or the Land Court Certificate.

5.3.4 Location of abutting property lines with ownership indicated.

5.3.5 Existing and proposed lines of sidewalks, streets, roads, lots, easements, public and common areas, flood plain boundaries, zoning and zone lines including all overlay districts within and abutting the subdivision.

5.3.6 Sufficient data to easily determine the location, direction, width and length of every street, easement, walk and way line, lot line, and boundary line and to reproduce these lines on the ground. All bearings shall be true, magnetic or grid and the north right-of-way used on the plan shall clearly indicate this.

5.3.7 Location of all permanent monuments, properly identified as to whether existing or proposed, including natural features and surfaces, and wetlands as defined by the Wetlands Protection Act (MGL Ch. 131, S.40) and the Tewksbury Wetlands Protection Bylaw.

5.3.8 A locus map (or location map) at a scale of 1" = 1,200' showing the relationship of the proposed subdivision to the community and its facilities for a ½ mile radius around the proposed subdivision.

5.3.9 Location, names, and present width of streets or roads and sidewalks bounding, approaching or within reasonable proximity of the subdivision, showing both roadway widths and right-of-way widths.

5.3.10 Site features such as, but not limited to:

5.3.10.1 Stone walls, fences, buildings, historic sites, ridges, outcroppings;

5.3.10.2 Waterways, swamps, drainage courses, water bodies, and, if available, the delineation of all wetlands, as approved by the Conservation Commission, or from the Town Topographical Maps; and

5.3.10.3 Shade trees.

5.3.11 Suitable space to inscribe the signatures of the members of the Board and to record or make reference to the decision or Certificate of Action of the Board, any restrictive covenants given under MGL Chapter 41, Section 81U, or any amendments thereto, and any conditions required by the Board of Health.

5.3.12 A clear indication, by proper symbols, markings, dates or other notes, after a thorough search has been made, of such points or boundary markers as were found in the traverses and/or perimeter surveys.

5.3.13 Existing and proposed topography for the entire subdivision at one-foot contour intervals.

5.3.14 Existing profiles on the exterior lines and centerlines (to be determined by field survey) and proposed street profile at 50-foot stations (25-foot stations for vertical curves) and with centerline elevations tied to a stationed base line, at a horizontal scale of 1" = 40' and at a vertical scale of 1" = 1', or such other scales required by the Board.

5.3.15 All elevations shall refer to a bench mark (or benchmarks) using the National Geodetic Vertical Datum (NGVD) of 1929 for base data. The location and elevation of the benchmark shall be shown on the plan, plus the location and elevation of at least one more benchmark.

5.3.16 Proposed layout of storm drainage system, water supply system, fire hydrants, sewer mains and all other utilities. These layouts should be checked with the appropriate departments. Their final approval should be in writing and on file with the Board prior to approval of the definitive plan. The locations, inverts, slopes, grades, stations, sizes and all

other dimensions including type of pipe and materials to be used, of all utilities and appurtenances shall be clearly shown.

5.3.17 Storm drainage runoff calculations used for storm water drainage system design shall be prepared by and display the seal of a registered professional engineer. Drainage calculations shall be provided for the subdivision for the two, 10, 25, 50 and 100-year storm events using one of the following methods: 1) SCS TR55; or 2) SCS TR 20. The calculations must contain a written summary explaining the rationale of the design so that a lay person can understand the basic design approach and its validity to the site in question. Furthermore, the calculations should be fully documented including copies of charts or other reference sources to make review easier. These calculations shall be used to determine all drainage structure and pipe sizes. All drainpipes shall be sized for a 25-year storm using the rational method.

5.3.18 Calculations demonstrating no increase in the peak rate of runoff and total volume of runoff for the proposed conditions. There shall be no increase in peak rate and no increase in total volume runoff.

5.3.19 Detail of typical cross-section of roadway showing all features; detail of a catch basin, manhole, headwall, sidewalk, sub drain, and all other appurtenances, structures and utilities.

5.3.20 Any existing discharge of storm water onto adjacent streets or abutting properties shall not be increased, in neither peak rate nor volume, as a result of the post-development conditions. Point discharges to abutting properties or adjacent streets shall be prohibited.

5.3.21 Indication of all easements, covenants or restrictions applying to the land and their purpose.

5.3.22 Location of all existing and proposed underground structures, including but not limited to, foundations, wells, septic systems, and underground storage tanks, within the subdivision and within 150 feet of the proposed subdivision.

5.3.23 All structures (dwellings) and driveways shall be shown on each lot. The plan shall be viewed by a Planning Board Agent for internal approval. Deviations from the approved plan to the location, size and orientation of the structures and driveways shall be reviewed by an agent of the Planning Board as an internal approval. Changes shall be allowed as it does not increase the amount of impervious area for the project such that the storm water management system has been designed to manage the increased runoff and that the changes do not impact adjacent properties.

5.3.24 The proposed location of the Central Box Unit (CBU), if required by the Tewksbury Postmaster.

5.4 EARTH REMOVAL

Where earth removal is associated with the construction of subdivision streets and drainage, the developer shall provide the following information:

- 5.4.1 Amount of earth to be removed
- 5.4.2 Proposed disposition of such earth; and
- 5.4.3 Method of removal, including the means proposed to prevent erosion and sedimentation and to protect adjacent areas.

The Board may prescribe conditions of operation. Such conditions will become part of the subdivision approval.

5.5 WAIVERS OF RULES AND REGULATIONS

Strict compliance with the requirements of these rules may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the intent and purpose of the subdivision control law.

5.6 NOTICE TO TOWN CLERK

Every person submitting a definitive plan of land to the Board for its approval shall, pursuant to MGL, Ch. 41, S.81T, file written notice that they have submitted such a plan with the Town Clerk, by delivery or by registered mail, postage prepaid. If the notice is given by delivery, the clerk shall, if requested, give a written receipt to the person who delivered such notice. The date of filing with the Board shall be certified on such notice as time stamped by the Town Clerk.

5.7 NOTICE TO BOARD OF HEALTH

When a definitive plan of a subdivision is submitted to the Planning Board, as provided in MGL Chapter 41, S.81O, a copy thereof shall also be filed with the Board of Health. The Board of Health, or its authorized representative, shall within 45 days after the plan is so filed, report to the Board in writing, approval or disapproval of said plan, and in the event of disapproval, shall make specific findings as to which, if any, areas 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.

Failure of the Board of Health to report shall be deemed approval by the Board of Health. If the report of the Board of Health so requires, the approval of the Board shall be on condition that no building or structure shall be built or placed upon the areas designated without consent by such Board of Health or authorized representative. In the event that approval by the Board of Health is by failure to make a report, the Board shall note on the plan that health approval is by failure to report. If public sewer is available and will be utilized, the Board of Health shall advise the Planning Board.

5.8 PUBLIC HEARING

Before approval, modification and approval, or disapproval of the definitive plan is given, a public hearing shall be held by the Board, notice of the time and place of which and of the subject matter, sufficient for identification, shall be given by the Board or its designee at the expense of the applicant by advertisement in a newspaper of general circulation in Tewksbury once in each of two successive weeks, the first publication being not less than fourteen days before the day of such hearing, and by mailing a copy of such advertisement by certified mail to the applicant and to all abutters.

5.9 PLANNING BOARD ACTION ON DEFINITIVE PLAN

The action of the Board on a definitive plan shall be by vote of a simple majority of the Board within 90 days of the date of submission, if the application for approval of the definitive plan was preceded by a preliminary plan in accordance with these rules. If no such preliminary plan was filed, the Board shall act within 135 days from date of submission.

5.9.1 The action shall be accompanied by a decision that shall serve as the “Certificate of Action,” and copies of said decision shall be certified and filed with the Town Clerk and sent by delivery or by registered mail to the applicant. If the Board modifies or disapproves such plan, it shall state in its decision the reasons for its action.

5.9.2 Final approval, if granted, shall be endorsed on the original drawing of the definitive plan as amended by the Board's action by the signatures of a majority of the Board but not until the statutory 20 day appeal period has elapsed following the filing of the certificate of the action with the Town Clerk and said Clerk has notified the Board that no appeal has been filed.

5.9.2.1 If the definitive plan is prepared using a computer aided drafting program, an electronic copy of the final definitive plan shall be submitted to the Town Engineer.

5.9.3 Approval of a definitive subdivision control plan shall remain valid three years from the date of endorsement, on the plan of a majority of the Planning Board.

5.9.3.1 Any request for an extension of the specified time limitation set forth in the decision shall be made in writing to the Board at least 30 days prior to the expiration date. The Board reserves its rights to grant or deny such extension if good cause for such extension is not shown.

SECTION 6

PERFORMANCE GUARANTEE

6.1 TYPES OF PERFORMANCE GUARANTEES

Before endorsement of its approval of a plan, the Board shall require that the construction of streets and the installation of municipal services be secured by one, or in part by one and, in part by another, of the methods described in the following clauses 6.1.1, 6.1.2, 6.1.3 and 6.1.4 which method or combination of methods may be selected and from time to time varied by the applicant:

6.1.1 By a restrictive covenant, executed and duly recorded by the owner of record, running with the land, whereby such streets and services shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any such lot, subject to that portion of the restrictive covenant which provides that no lot shall be built upon until such streets and services have been provided to serve such lot; and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such restrictive covenant, of either the entire parcel of land shown on the subdivision control plan or of all lots not previously released by the Board. A deed of any part of the subdivision in violation thereof shall be voidable by the grantee prior to the release of the restrictive covenant but not later than three years from the date of such deed.

6.1.2 By types of performance guarantees, sufficient in the opinion of the Board to secure performance of the construction of streets and installation of municipal services required for lots in the subdivision shown on the plan.

6.1.3 By a deposit of money, negotiable securities, or a letter of credit, sufficient in the opinion of the Board to secure performance of the construction of streets and the installation of municipal services required for lots in the subdivision shown on the plan. Negotiable securities and letters of credit shall be from an institution which, in the opinion of the Town Treasurer, is in sound financial condition.

6.1.4 By delivery to the Board of an agreement executed after the recording of a first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made to the applicant by the lender, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of funds sufficient in the opinion of the Board and otherwise due the applicant, to secure the construction of streets and the installation of municipal services. Unless the lender executing such agreement is considered by the Town Treasurer to be in sound financial condition, the Board may reject such agreement as insufficient to serve as a performance

guarantee. Said agreement shall also provide for a schedule of disbursements which may be made from time to time to the applicant upon completion of various stages of the work, and shall further provide that in the event the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available to the Board for completion.

6.2 FORM OF PERFORMANCE GUARANTEES

Performance guarantees shall be filed with the Planning Department and shall be subject to the following requirements:

6.2.1 If performance is guaranteed by means of a restrictive covenant pursuant to Section 6.1.1, such restrictive covenant shall be in the form and contain the language as shown in the form entitled Approval with restrictive covenant (see Appendix A-6, Form E), or as otherwise required or approved by the Board.

6.2.2 If performance is guaranteed by means of a bond (Section 6.1.2), a deposit of money, negotiable securities, or letter of credit (Section 6.1.3) or an agreement whereby the construction lender retains loan funds (Section 6.1.4), the performance guarantee shall comply with the following:

6.2.2.1 It shall define the developers' obligation as “the construction of streets and roads, the installation of municipal services and the construction of certain other improvements for lots as shown in the subdivision plan entitled _____, dated _____, and approved by the Board on _____, including without limitation, the work described in attached Schedule A” (Section 6.2.2.6).

6.2.2.2 It shall specify a scheduled completion date on which the construction of the approved subdivision streets and improvements shall be completed by the developer. The Board may extend such time as it deems appropriate after receipt of a written request received by the Board 45 days prior to the scheduled date of completion.

6.2.2.3 It shall state that it shall not expire until the Board upon request certifies that all road work and improvements have been completed according to the approved plan and that the performance guarantee is released, or, until 45 days have lapsed from the date the Board received, by certified mail, a request for such certification and release, whichever comes first.

6.2.2.4 It shall state that it applies in full to all successors of the applicant whose performance is guaranteed.

6.2.2.5 It shall state that the full amount of the guarantee shall be due immediately to the Town in case of the default of the developer or his/her successor in

constructing the streets and roads, municipal services and other improvements in accordance with the approved subdivision control plan. This includes:

6.2.2.5.1 Failure to complete all improvements as shown on the approved subdivision control plan by the scheduled completion;

6.2.2.5.2 Date (as specified in accordance with Section 6.2.2.2), or bankruptcy of the developer or the foreclosure of any mortgage on all or part of the land of the approved subdivision before the scheduled completion date;

6.2.2.5.3 Notice to the Board of the withdrawal or termination of any performance guarantee given hereunder, or of a request to substitute performance guarantee hereunder, prior to the scheduled completion date of the work, unless it is given 45 days prior to the anticipated date of such withdrawal, termination or substitution, or;

6.2.2.5.4 Any other condition or circumstance that constitutes default, in the opinion of the Board.

6.2.2.6 The performance guarantee shall include a detailed scope of work to be completed under the performance guarantee and a schedule of partial and final releases of the performance guarantee, in accordance with Section 6.3 and 6.4.

6.2.3 The performance guarantee shall not contain any language which contradicts the above stated requirements.

6.2.4 A bond estimate may be requested from the Board once prior to the establishment of the performance guarantee and once with each subsequent full or partial bond release. The estimate will remain effective for 90 days. The penal sum of any such bond held under Section 6.1.2 or any deposit held under Section 6.1.3 or any amount of funds retained pursuant to an agreement under Section 6.1.4 shall bear a direct and reasonable relationship to the expected cost necessary to complete the subject work plus a contingency amount of no more than 20 percent of the expected cost to guard against unexpected costs and the effects of inflation. However, the estimate shall reflect the cost for the town to complete the work as a public works project which may necessitate engineering, inspection, legal and administrative fees, additional staff time and public bidding procedures.

6.3 PARTIAL RELEASES

Prior to final release of a performance guarantee, the Board may grant up to two partial releases from the required performance guarantee for partial completion of improvements (or three partial releases in the event the original performance guarantee exceeds the sum of \$1,000,000 or 50 lots) provided that:

6.3.1 No lots shall be released from a restrictive covenant unless construction of streets and roads, and installation of municipal services and other improvements in accordance with the approved subdivision control plan for said lots has been completed or another form of security has been substituted, sufficient to complete said streets and roads, municipal services and other improvements.

6.3.2 No reduction in the amount of the performance guarantee shall reduce the performance guarantee to a value below the estimated cost of completing the unfinished portions of the improvements as set forth in 6.2.4.

6.3.3 Prior to partial release of a performance guarantee, an interim as-built plan shall be submitted for that portion of improvements for which the partial release is sought. The interim as-built plan may consist of a paper copy of the approved plan(s) with the as-built locations and/or elevations of the completed improvements shown in red pen or marker. The interim as-built plan shall be dated and signed by the preparer (i.e. contractor, engineer, or surveyor) and submitted to the Board for review by the Board's consultant, along with the release request.

6.4 FINAL RELEASE

Upon the completion of the construction of streets and roads, and the installation of municipal services and other improvements in accordance with the approved subdivision control plan, the applicant may request release of the bond, deposit of money or securities, or funds retained by lender by sending a statement of completion and a request for release to the Board.

6.4.1 Such statement shall be accompanied by the following:

6.4.1.1 One paper copy and one electronic file of an as-built plan of the streets and roads as required in Section 10.1.

6.4.1.2 A written certification by a Registered Land Surveyor indicating that such as-built plan accurately reflects the conditions in the completed subdivision in compliance with the approved Definitive Plan.

6.4.1.3 A written certification by a registered professional engineer that the streets, drainage and utilities conform to the Board's requirements in accordance with the approved Definitive Plan.

6.4.1.4 The address of the applicant.

6.4.2 If the Board determines that said construction or installation has not been completed in accordance with the approved subdivision control plan, it shall specify in a notice sent to the Town Clerk and, by registered mail, to the applicant, the details wherein said construction or installation fails to comply with the approved subdivision control plan. Upon failure to do so within 45 days after the receipt by said clerk of the statement

requesting release of the Town's interests, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such restrictive covenant shall become void. In the event that said 45 day period expires without such specification by the Board, or without the release and return of the bond or return of the deposit or release of the restrictive covenant as aforesaid, the Town Clerk shall, upon request, issue a certificate to such effect, duly acknowledged, which may be recorded.

6.4.3 However, even though all improvements covered by a performance guarantee may have been completed, the Board may delay the release of the performance guarantee if completion of construction of any remaining undeveloped or partially developed lot or lots poses a substantial risk of damage to the subdivision improvements.

6.4.4 When a road or street in a subdivision has been completed in a manner fulfilling the requirements of the Board and there are no outstanding performance guarantees remaining in effect that were required as security to ensure completion of improvements within the subdivision, the subdivider may request the Board to inspect the road in order to give a recommendation to the Board of Selectmen who will consider the question of laying out said street or road under MGL Ch. 82. Street acceptances within subdivision are the financial and legal responsibility of the subdivider. The subdivider shall be responsible for complying with Section 18.3, street acceptance policy as required in the Board of Selectmen Policies and Regulations.

SECTION 7

ENDORSEMENT AND RECORDING AN APPROVED PLAN

7.1 ENDORSEMENT OF APPROVED PLAN

The approved definitive subdivision control plan is intended to be used as a contract document for the construction and inspection of the streets and utilities within the subdivision in conformity with these rules. The approved plan shall also contain the “Record Plan” for purposes of filing with the Middlesex North Registry of Deeds or the Land Court. The following information and form is required for submission of the “Record Plan” for endorsement by the Board:

7.1.1 The entire approved definitive plan of the subdivision as amended by the Board in its decision of approval.

7.1.2 Two copies of the plan drawn in compatible black drawing ink on polyester drafting film or other medium acceptable to the Middlesex North Registry of Deeds or Land Court, and four contact prints thereof.

7.1.3 Reference to any required documents shall be inscribed on the “Record Plan” with a note that such documents shall be recorded with the “Record Plan.”

7.2 RECORDING PLANS

The approved “Record Plan,” the decision of the Board, any restrictive covenant, and any other supplementary documentation as required by the Board shall be recorded by the subdivider or his qualified agent at the Middlesex North Registry of Deeds or the Land Court with proof of said plan recordation such as the Registry receipt transmitted to the Board.

SECTION 8

DESIGN STANDARDS

8.1 STREETS

All streets in the subdivision shall be designed so that, in the opinion of the Board, they will provide for safe vehicular and pedestrian travel. The design shall comply with these rules. The Board may waive any design requirement or impose additional design requirements if the Board finds, based upon the conditions of the site that such waivers or additional requirements are necessary or desirable to provide for safe and convenient vehicular and pedestrian travel.

8.1.1 The proposed streets shall conform in width and alignment to provide for adequate circulation and to maximize connections with existing, proposed and potential future streets and roads.

8.1.2 Provisions shall be made for proper future access of any streets and roads to ensure adequate future access to any adjoining property. If suitable easements or other connections from existing streets are already established providing potential access to the proposed subdivision, the streets and roads shall be constructed to connect the proposed subdivision streets via said easements and connections. Pavements or other improvements in any turnarounds in existing streets which, in the opinion of the Board, have been rendered superfluous due to the connection shall be removed.

8.1.3 Subdivision streets shall be contiguous and in alignment with existing streets or proposed streets on abutting lots.

8.1.4 There shall be no reserved strips controlling access to existing or proposed streets or adjoining property.

8.1.5 The proposed streets and roads shall compose a system that ensures safe and adequate circulation of vehicular and pedestrian traffic within the proposed subdivision and in coordination with adjacent streets and roads. The Board may require appropriate and reasonable improvements in adjacent streets and roads to minimize congestion, to insure safe and adequate access to the proposed subdivision, and to insure safe and adequate vehicular and pedestrian travel in a coordinated system of streets and roads in Tewksbury.

8.1.6 Intersections with more than four legs are not permitted.

8.1.7 Street lines at intersections shall be cut back to provide for sideline radii of not less than 25 feet.

8.1.8 Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other street at less than 75 degrees. Curves of street sidelines at street intersections must have a radius of not less than 25 feet, except where the angle of intersection varies more than 10 degrees from a right angle, in which case the radius of the curve connecting the acute angle may be less and the opposite radius must be correspondingly greater.

8.1.9 The minimum centerline radius shall be as shown in Table I “Horizontal Design Standards” (see Appendix B-1). The minimum radius shall be 150 feet for residential and 300 feet for industrial/commercial streets. The minimum tangent between reverse curves shall be 100 feet for all streets. The Vertical Design Standards shall conform to the latest American Association of State Highway and Transportation Officials (AASHTO) manual (Green Book).

8.1.10 Superelevation of curves, sight distances, tangents between reverse curves, right-of-way widths, grades, transition areas, crest vertical curves, sag vertical curves, stopping sight distances and correction for stopping distances will be determined by using the following: Table I “Horizontal Design Standards” (see Appendix B-1) and AASHTO Vertical Design Standards.

8.1.11 Grades of streets shall be as required in the AASHTO Vertical Design Standards.

8.1.12 Street right-of-way widths shall be as shown on Table I “Horizontal Design Standards” (see Appendix B-1).

8.1.13 Single access streets shall not exceed 1,000 feet in length.

8.1.14 A cul-de-sac street turnaround shall be designed in the following way:

8.1.14.1 A loop turnaround which shall be offset in relation to the street to form a ‘q’ whereby the street intersects with itself in a 90 degree angle. (A “lollipop” configuration is also allowed).

8.1.14.1.1 The outside diameter shall be 90 feet in diameter from the gutter line.

8.1.14.1.2 The sideline diameter of the loop turnaround shall provide a constant shoulder width throughout the entire street, except that at the intersection the shoulder width may vary to meet other requirements of these rules.

8.1.15 There shall be no more than 40 residential dwelling units on a single access street or series of streets having only one terminus onto a through street. To construct more than 40 dwelling units a secondary means of access, adequate in the opinion of the Board, shall be provided.

8.1.16 Where a proposed residential subdivision will increase any number of existing dwelling units on an existing single access street to more than 40, the Board may require alternate means of access to a through street or improvements on the existing single access street or within the adjacent street network, in order to ensure adequate safety and access to all dwellings in the proposed subdivision.

8.1.17 In a non-residential subdivision, there shall be no more than 250,000 square feet of floor area on a single access street or series of streets having only one terminus onto a through street. To construct more than 250,000 square feet of floor space, a secondary means of access, adequate in the opinion of the Board, shall be provided.

8.1.17.1 Where a proposed non-residential subdivision will increase any number of existing square feet of floor area on a single access street to more than 250,000 square feet, the Board may require alternate means of access to a through street or improvements on the existing single access street or within the adjacent street network, in order to ensure adequate safety and access to all buildings in the proposed subdivision. In determining the floor area to be built in a non-residential subdivision, the maximum potential build-out shall be assumed.

8.1.18 In laying out the subdivision and in locating streets, roads, municipal services and other improvements, due regard shall be shown for all natural features, such as large trees, (18 inches diameter or more), public shade trees, water courses, historic sites, and similar community assets, which, if preserved, will add attractiveness and value to the subdivision.

8.1.19 Whenever possible, streets shall be laid out to minimize cutting and filling. If the construction of the street would require filling or disruption of a wetlands such filling or disruption shall be made in compliance with the Wetlands Protection Act, MGL Ch. 131, S.40, any Rules and Regulations issued thereunder, and with any Order of Conditions issued by the Tewksbury Conservation Commission.

8.1.19.1 Filling or disruption of a wetland shall be avoided wherever possible by utilizing alternative upland access over the parcel to be subdivided or over an adjacent parcel which is also owned by the owner of the land to be subdivided either in person or through a separate realty trust or similar form of ownership. Where no such alternative upland access is available, the filling and disruption of wetlands shall be minimized.

8.1.19.2 The Board may grant appropriate waivers from these rules in order to minimize the filling and disruption of wetlands, provided that such waivers are in the public interest to protect wetlands, address the requirements of the Tewksbury Conservation Commission, and are consistent with the purpose and intent of the subdivision control law.

8.1.20 The subdivider shall give due consideration to the attractiveness of the street layout in order to obtain maximum livability and amenities of the subdivision.

8.1.21 Roads or roadways in subdivision shall not provide access to land in an adjoining town unless there is also adequate access over streets in the adjoining town.

8.2 DRAINAGE

8.2.1 Adequate drainage shall be designed to take care of the surface and subsurface water of roadway and adjoining land. Street drainage designs shall be of the type known as a “manhole system.” The manhole system is one in which the water collected in the catch basins empties into an intermediate manhole in a main drain laid in the street as shown on Appendix B-2. 8.2.2 The main drain shall also have additional manholes installed at points where changes in direction and/or grade make such manholes necessary to ensure an uninterrupted flow of water to its final outlet. If it is felt that a variation or modification of the required drainage system is advisable, then the subdivider shall present such varied or modified design to the Board for the adjudication.

8.2.2.1 The design shall include the size, quality, and type of pipe; design and size of structures such as catch basins, drop inlets, manholes, etc., the percent of grade and depth at which the pipe is to be laid and the depth of any such structure aforementioned.

8.2.2.2 All necessary drains or roadway surface water to be carried across private lands shall be with easements obtained by the subdivider and approved by the Board.

8.2.2.3 At the request of the Board, a drainage design to eliminate or remove any other water or waters within the subdivision limits and not designated as roadway or subsurface water, and which is otherwise not taken care of, shall be drawn in a manner approved by the Board.

8.2.3 The peak rate and volume of storm water runoff from the subdivision shall not exceed the peak rate and volume existing prior to the new construction based on the two, 10, 25, 50, 100-year design storms.

8.2.4 The drainage best management practices (BMPs) shall be designed in accordance with DEP storm water management regulations.

8.3 EROSION AND SEDIMENT CONTROL

8.3.1 During development and construction, adequate protective measures shall be provided to minimize damage from surface water to the cut face of excavations or the sloping surface of fills.

8.3.2 Land shall be developed in increments of workable size which can be stabilized during a single construction season. Erosion and sediment control measures shall be coordinated with the sequence of grading, development and construction operations. Control measures such as hydro-seeding, berms, interceptor ditches, terraces and sediment traps shall be put into effect prior to the commencement of each increment of the development/construction process. This shall require periodic inspections by the Department of Public Works. The applicant shall request inspections at these intervals.

8.3.3 Sediment basins (debris basins, desilting basins, or silt traps) shall be installed in conjunction with the initial grading operations and maintained through the development process to remove sediment from runoff waters draining from land undergoing development.

8.3.4 A note on the Plan shall state that the developer is required to clean up any sand, dirt, or debris which erodes from subdivision onto any public street or private property, and to remove silt or debris that enters any existing drainage system including catch basin sumps, pipe lines, manholes, and ditches.

8.3.5 All erosion controls and best management practices shall be installed according to the Massachusetts Stormwater Management Standards and the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas.

8.4 SUBDIVISION STANDARDS IN THE FLOOD PLAIN DISTRICT

Whenever possible, streets shall be laid out so that filling or construction within the Flood Plain District will not be required. If any part of subdivision is located within the Flood Plain District, the subdivision shall comply with all applicable State and Federal laws, including the Wetlands Protection Act, prior to plan submittal. The subdivision shall comply with the following:

8.4.1 The design shall be consistent with the need to minimize flood damage.

8.4.2 All municipal service installations shall be located and constructed to minimize or eliminate the possibility of flood damage.

8.4.3 Adequate drainage system shall be provided to reduce exposure to flood hazards.

8.4.4 Base flood elevations (the level of the 100-year flood) shall be shown on the plan along with one foot contour intervals for the portion located within the Flood Plain District.

8.5 SEWERAGE

Whenever applicable, sewers shall be designed in accordance with the *Rules and Regulations Governing the Use of Sewers, Sewer Construction Standards*, and good engineering practices as approved by the Director of Public Works.

8.6 EASEMENTS

8.6.1 Easements for utilities across lots or along rear or side lot lines shall be provided where necessary, and shall be at least 20 feet wide.

8.6.2 Easements shall be provided for all drainage features required for the proper function of the storm water management system and the overall site drainage. Easements for drainage across lots shall be provided where necessary and shall be at least 20 feet wide. Such easements shall be of an adequate width to provide for the construction of such drainage and for the proper maintenance thereof.

8.6.3 Where a subdivision is traversed by a water course, drainage course, channel or stream, a storm water easement or drainage right-of-way shall be provided of adequate width to conform substantially to the lines of such water course, drainage course, channel or stream and to provide for construction and repair. In the absence of engineering evidence of the extent of the drainage course, an easement shall be required consisting of 30 feet from either side of the center line of any major stream and 15 feet from either side of the center line of a minor stream.

8.6.4 All lines of all easements shall be calculated and described on the subdivision control plan with a bearing and distance.

SECTION 9

IMPROVEMENTS

9.1 STREET ROADWAY

9.1.1 The construction of all streets and roads shall comply with the all applicable Mass DOT Construction Standards, as amended.

9.1.2 The entire area of each street or road shall be cleared of all stumps, brush, roots, boulders, like material and all trees not intended for preservation.

9.1.3 All loam and other yielding material shall be removed from the roadway area of each street or road and replaced with suitable material. Provisions shall be made for dust control.

9.1.4 All roadways shall be brought to finish grade as shown on the profiles of the definitive plan with at least the top 12 inches consisting of two six-inch layers of well-compacted binding gravel one foot wider on each side than required pavement and to be located in the right-of-way, as shown on the appropriate Typical Cross-section.

9.1.5 The completed gravel surface shall be treated for the full width of the roadway with a minimum of 2 ½ inches of Hot Mix Asphalt Class I, Type 1, bituminous concrete pavement applied as a binder course. The binder course shall be exposed to one winter season (November 15 – April 1) prior to the application of the wearing course.

9.1.6 The binder course shall be treated for the full width of the roadway with a wearing surface a minimum thickness of 1½ inches of Hot Mix Asphalt, Class I, type 1, bituminous concrete pavement applied in one course. Prior to installation of the wearing surface, the binder shall be swept clean, dried if necessary, and treated with a tack coat at a rate of 0.05 gallons per square yard to ensure a satisfactory bond between pavement courses. Tack coat shall meet the requirements of Mass DOT specification M3.11.06. In order to minimize damage to the wearing surface, the wearing course shall not be applied until construction on a majority lots served by the subdivision streets is in the opinion of the Board completed or substantially completed.

9.1.7 Following the installation of the wearing surface, no excavations shall be permitted in the road surface for a period of five years except in emergency cases. Any such excavation shall be repaired as per the repair policy of the Department of Public Works with infrared patching equipment.

Street width, as designated on the definitive plan, shall conform to the “Street Cross-sections” and all streets shall be constructed in conformity to the “Design and Construction

Standards,” established by the Tewksbury Planning Board. All side slopes of any road shall provide for a maximum of 3:1.

9.1.8 Unless written approval is received by the Department of Public Works or the Town Engineer, no paving may take place between November 15 and April 1 of any year.

9.1.9 Any material used shall comply with the Massachusetts Department of Environmental Protection Standards.

9.2 UTILITIES

9.2.1 Drain pipes, sewer pipes (if applicable) and related equipment, such as manholes and catch basins, shall be constructed in conformity with specifications of the Commonwealth of Massachusetts Department of Transportation Standard Specifications for Highways and Bridges 2020, as amended.

9.2.2 Adequate disposal of surface water shall be provided. Catch basins and drain manholes shall be built in conformance with the Massachusetts Department of Transportation Construction Standard Details on both sides of the roadway on continuous grades at intervals of not more than 300 feet, at low points and sags in the roadway and near the corners of the roadway at intersecting streets as necessary.

9.2.3 Sub-drains, constructed as shown in the Massachusetts Department of Transportation Construction Standards, shall be installed at the edge of the area to be paved when deemed necessary by the Board.

9.2.4 Water pipes and related equipment, such as hydrants and main shut-off valves, shall be constructed to serve all lots on each street in the subdivision in conformity with specifications of the Department of Public Works. Hydrants shall be provided and placed at intervals of not more than 500 feet along each street. All locations must be shown on the definitive plan and must be approved by the Fire Chief and Director of Public Works. Curbs stops and curb boxes shall be located in accordance with the Department of Public Works’ *Water Regulations and Fees*.

9.2.5 Water mains within subdivision limits shall be eight inches in diameter or larger, as determined by the Tewksbury Director of Public Works. Sanitary sewers and related equipment shall be constructed to serve all lots on each street in the subdivision in accordance with the specifications of the Town Department of Public Works.

9.2.6 All utility lines shall be installed underground; design and location must be approved by each pertinent utility company.

9.2.7 The Board shall determine the location of above ground utility cabinets (associated with the function of underground utility service) and further determine suitable landscaping

so as to shield these cabinets from view. Proposed utility cabinets shall be shown on all definitive subdivision control plans.

9.3 MONUMENTS

9.3.1 Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets. Such monuments shall be of granite or concrete six inches square by four feet long and shall be set flush with the finished grade in hardscaped areas and two inches below grade in landscaped areas. Driveways shall not be located in a way that they will impede the installation of the monuments as prescribed above unless approved by the Board. No permanent monuments shall be installed until all construction which would destroy or disturb the monuments is completed.

9.3.2 The Board shall require a certificate by a registered land surveyor to be obtained at the subdivider's expense, indicating that these permanent monuments are in place and are accurately located, including evidence that the bound traverse had an "error of closure" of 1:15,000 or better.

9.3.2.1 The certificate is to be submitted to the Board prior to acceptance of the road by the Town.

9.4 CURBS

9.4.1 A continuous vertical granite curb shall be provided as an integral part of the new streets. The curbing shall conform to the Commonwealth of Massachusetts Department of Transportation Standard Specifications for Highways and Bridges and the Massachusetts Department of Transportation Construction Standard Details, as amended. Vertical Granite curbing shall include cement concrete on both the front and back faces of the vertical curb. The Board may require alternative curb materials depending on local conditions and the location and purpose of the curb.

9.4.2 Curb radii at intersections and in turnarounds shall be sufficiently large to allow for the turning of Single-Unit (SU) Truck design vehicles (typical size of fire engines and school buses). The construction of curbs radii for all streets and roads shall comply with all the applicable regulations of the *527 CMR 1.00 Massachusetts Comprehensive Fire Safety Code, Chapter 18*.

9.5 SIDEWALKS, PEDESTRIAN WAYS, CROSS WALKS AND BICYCLE PATHS

9.5.1 To provide for safe pedestrian travel, sidewalks shall be required in all subdivisions on both sides of every street. A sidewalk shall be required along that portion of any existing public street upon which the subdivision has frontage.

9.5.2 The sidewalks shall be a minimum of five feet wide and constructed in accordance with the requirements of the Massachusetts Architectural Access Board, the typical

structural cross-section (see Appendix B-2) and with the *Commonwealth of Massachusetts Department of Transportation Standard Specifications for Highways and Bridges*, as amended, unless the Board authorizes different design to respond to local topography or other circumstances.

9.5.3 Sidewalks shall consist of six inches of bank run gravel (or equivalent) covered with three inches of processed grading gravel. The gravel base shall be covered with a wearing surface of three inches of hot mix asphalt Class I, Type 1, bituminous concrete applied in two even courses.

9.5.4 Handicapped ramps shall be installed at all cross walks in accordance with the requirements of the Massachusetts Architectural Access Board.

9.5.5 The Board may grant a waiver for sidewalk installation within the development and the adjacent roadway with the cost of construction of such waived sidewalk being deposited by the subdivider into the Board's sidewalk account.

9.5.6 Upon findings, the Board may waive the construction of sidewalks, in locations where the cost of construction (fee) or the rehabilitation of offsite sidewalks by the applicant is more beneficial to the public.

9.5.7 Cost of the construction (fee) and standards of rehabilitation of offsite sidewalks to be determined by the Planning Board, upon advice of the Town Engineer or Planning Board consulting engineer.

9.6 STREET SIGNS AND LAMP POSTS

9.6.1 Permanent street signs shall be erected at all intersections. These signs shall be of the same type now existing in the Town and shall meet the specifications of the Department of Public Works. They shall be erected prior to the occupancy of the first house on the street.

9.6.2 Every lot within the subdivision shall be required to have a lighted lamp post installed. The type and location shall be determined by the Board.

9.7 TREES AND OTHER VEGETATION

9.7.1 Deciduous shade street trees, as approved by the Director of Public Works, shall be planted on the right-of-way boundary. Trees shall be planted 15 feet from the edge of the pavement at not more than 50-foot intervals.

9.7.2 Trees shall be a minimum of 10 feet in height, with a caliper size of two to two and one half inches ball and burlap and shall be nursery-grown stock.

9.7.3 All cut and fill slopes within or contiguous to the street right-of-way shall be planted with suitable, well-rooted, low growing plant materials as determined by the Board. Wood

chips, mulch, seeding or sodding shall be used to eliminate erosion. The Board may require or allow alternative measures for slopes equal to or greater than 3:1.

9.7.4 All cleared areas of the street right-of-way, not to be planted with ground cover, and all disturbed areas within public easements, shall be loamed with not less than six inches depth of good quality loam and seeded with turf grass seed in accordance with good planting practice, including application of lime and fertilizer. Such areas shall be raked smoothly to allow mowing without equipment damage.

9.8 EXISTING ADJACENT STREETS AND ROADS

In order to ensure vehicular and pedestrian safety, the Board will consider the adequacy of streets and roads adjacent to or providing access to a proposed subdivision. It is the Board's intent that a proposed subdivision does not overly strain the capacity of existing or planned streets and roads so as to result in traffic congestion and safety problems.

9.8.1 In the opinion of the Board, when a subdivision is deemed to have a detrimental effect on existing or proposed streets, roads, and intersections, or where a subdivision borders on an existing but inadequately constructed street or road, the Board may require appropriate and reasonable improvements in streets and roads bordering or providing access to the subdivision to minimize congestion and to insure safe and adequate vehicular and pedestrian travel in a coordinated system of streets and roads.

9.8.2 Improvements that the Board may require in adjacent and nearby streets and roads shall include, but shall not be limited to, grade adjustments and realignments of horizontal and vertical curves, corrections of drainage deficiencies, improvements of bridges and culverts, widenings and additions of travel lanes, installation of traffic control signage and traffic signals and construction of sidewalks and bikeways.

9.8.3 A traffic impact study will be required with all definitive plan submissions where deemed necessary by the Board, but in any case where the proposed or potential uses, in the opinion of the Board, will be likely to produce an additional 30 trip ends per peak hour (AM, PM or weekend, whichever is highest) or an average of 400 additional trip ends per weekday based on the most recent edition of the Institute of Transportation Engineer' (ITE) publication "Trip Generation."

9.8.3.1 If the proposed or potential uses are not listed in said publication, the Board may approve the use of trip generation rates for another listed use that is similar, in terms of traffic generation, to the proposed or potential uses. If no such use is sufficiently similar, a detailed traffic generation estimate, along with the methodology used, shall be prepared by a person or firm who is a member of the ITE and has documented experience and qualifications in traffic planning and traffic engineering and shall be submitted to the Board.

9.8.4 To avoid lengthy delays in the processing of the definitive plan submission, the applicant shall consult with the Board or its designee during the preliminary plan review to determine whether a traffic study will be required.

9.8.4.1 If a traffic impact study is deemed necessary, it shall be prepared by a person or firm who is a member of the ITE and has documented experience and qualifications in traffic planning and traffic engineering and it shall examine the following:

9.8.4.1.1 Existing Traffic Conditions including street geometries, traffic volumes, safety, delays and levels of service for adjacent streets, roads and intersections potentially affected by the proposed subdivision

9.8.4.1.2 Future Traffic Conditions including trip generation, trip distribution, volume to capacity ratios and levels of service for adjacent streets, roads and intersections affected by the proposed subdivision and for the proposed streets, roads and intersections, at the time of completion and five years beyond anticipated completion taking into account background growth projections.

9.8.4.1.2.1 Approach and departure route assignments shall be based on existing traffic patterns, minimum time paths and market studies.

9.8.4.1.2.2 Trip generation for the proposed or potential uses shall be based on ITE Trip Generation (latest edition) averages and must include weekday AM, weekday PM and weekend peak hour trips, as well as average weekday daily trips.

9.8.4.1.2.3 Any anticipated reduction in trips due to special characteristics of the subdivision (i.e. mixture of uses, internal capture) must be fully explained and documented.

9.8.4.1.2.4 Sight distances for turning movements to and from the subdivision and within the subdivision must be analyzed using AASHTO standards.

9.8.4.1.2.5 The adequacy of vehicular queuing storage at the subdivision entrance shall be demonstrated.

9.8.4.1.2.6 The impact and mechanics of any proposed phasing shall be outlined.

9.8.4.1.3 Mitigation measures that could be taken to reduce the impacts of the proposed subdivision and their estimated costs.

9.8.4.1.3.1 These should include demand management strategies (i.e. staggered work hours, car and van pooling, facilities for pedestrians and bicyclists) and capacity enhancements (i.e. lane additions, signalization).

9.8.4.1.3.2 The study shall take into account any improvements that may be planned by the Town or the State within the study area.

SECTION 10

ADMINISTRATION

10.1 TOWN OF TEWKSBURY MASSACHUSETTS DIGITAL DATA SUBMISSION REQUIREMENTS

The Applicant shall submit electronic information in accordance with the Town of Tewksbury Digital Data Submission Requirements (See Appendix C-2).

10.2 MANDATORY NOTICE PRIOR TO COMMENCEMENT OF CONSTRUCTION WORK

Written notice shall be provided to the Board advising the Board that construction within an approved subdivision shall commence not sooner than seven days from the date that such notice is mailed to the Board. Such notice shall be signed by the applicant, subdivider, developer or other authorized representative of the record owner of the subdivision.

10.3 INSPECTION

The Board will provide inspection by an authorized inspector of all construction phases in an approved subdivision to ensure full compliance with the rules and the subdivision approval. This inspector shall not authorize any changes from these regulations or from the approved record plan for the subdivision without specific approval of the Board.

10.3.1 The inspector shall inspect the work in progress during reasonable hours as the inspector sees fit; but in any case it will be the subdivider's responsibility to request inspections at the following progress steps:

10.3.1.1 After excavation and/or filling has been completed, but before the gravel placement operations is started.

10.3.1.2 After drainage system (pipe, manholes, catch basins and other drainage structures) is installed, but before it is covered. Inspector shall enter each catch basin to sight drainage pipe runs to adjacent basins. Any defective runs shall be corrected before approval is given.

10.3.1.3 After surface gravel is installed and compacted, but before bituminous concrete pavement is applied. The Inspector shall also inspect pipe runs from catch basins as above.

10.3.1.4 After bituminous concrete/sloped granite curbing, if required, are installed.

10.3.1.5 Before acceptance by the Town at an Annual or Special Town meeting.

10.3.1.6 At other specific times deemed necessary by the Board.

10.3.1.7 Inspections of the water system, including the placement of hydrants, valves, etc. is normally carried out by the Department of Public Works. Duplicate inspections by an inspector as designed by the Board will not normally be required.

10.3.1.8 The subdivider shall give 48 hours' notice to the Department of Community Development or the Department of Public Works whenever an inspection is indicated.

10.3.1.9 The subdivider must furnish all data relative to baselines and grade stakes on the ground, stake sheets, ties and any other information which is needed in the opinion of the Board or those designated by the Board to accomplish such checking as is required for the requested approval and certification.

10.3.1.10 Failure of the subdivider to notify the Board as required herein shall result in the Board requiring any work not inspected as a result of such failure to be exposed in order that the proper inspection may be made.

10.4 COMPLETION WITHIN THREE YEARS

The Board shall impose as a condition of its approval of a definitive plan that the construction of all streets and all installation of municipal services shown on the plan be completed within three years of the date of approval. If the construction and installation is not completed within the three year period, the approval shall automatically lapse and no street shall be laid out, constructed or opened for public use unless and until a new Definitive Plan application has been filed in accordance with the rules then in effect and the new plan has been approved by the Board, or unless a written extension is granted by the Board.

10.5 ENFORCEMENT

No building permit shall be issued for the construction of any building or structure located on a lot subdivided or sold in violation of the provision of these rules.

No building permit shall be issued for the construction of any building or structure on a lot within the subdivision until the applicant has provided evidence to the Building Commissioner of the recording with the Middlesex North Registry of Deeds (or filing with the Land Court, as the case may be) of the Board's decision granting approval of the definitive plan and of all deeds, easements, covenants and lot releases pertinent thereto, and of the definitive plan.

10.6 AMENDMENTS

The Board may, from time to time, amend these rules by appropriate action taken at a public hearing, as provided by the MGL, Ch. 41, S.81Q, as amended.

10.7 VALIDITY

If any provision or provisions of these rules are finally adjudged invalid by a court of competent jurisdiction, such action shall not affect the validity of any other provision nor of the rules and regulations as a whole.

SECTION 11
APPENDICES

APPENDIX A

Appendix A contains forms, applications, forms, and other such materials. These forms and other materials are used by the Board in the orderly and reasonable administration of its duties under the subdivision control law and are included herein as a convenience to the applicant. Appendix A may, from time to time, be added to or diminished in number by the Board without a public hearing, and any item now or hereafter a part of Appendix A may be modified, amended or changed, also without a public hearing.

- A-1 Final As-Built Submission Requirements
- A-2 Form A – Usual Form of Application for Endorsement of Plan Believed Not to Require Approval
- A-3 Form B – Application for Approval of Preliminary Plan
- A-4 Form C – Application for Approval of Definitive Plan
- A-5 Form D – Usual Form for Action Taken by Board on a Definitive Subdivision Control Plan
- A-6 Form E – Restrictive Covenant
- A-7 Form F – Release of Lots Certificate of Performance
- A-8 Form G – Release of Lots Provision of Surety
- A-9 Form H – Certification of Bounds
- A-10 Form I – Performance Bond Secured by Bank Passbook
- A-11 Form J – Conveyance of Easements and Utilities
- A-12 Form K – Designer’s Certificate

APPENDIX A-1

FINAL AS-BUILT SUBMISSION REQUIREMENTS

Final as-built plans are required for all construction (new AND redeveloped) projects prior to Town Engineer approval, sign-off, and release of any bonds held by the Planning Board. This is a final as-built and should be treated as existing conditions, **detailed survey plan**. The requirements of said as-built plan are as follows:

1. Show to considerable detail that what was constructed is in concert with what was originally proposed and approved.
2. All plans shall be prepared with drafting software (AutoCAD or other), **NO SKETCHES**.
3. All plans shall be prepared at 40 scale (engineering, 1" = 40') or other, approved by the Town Engineer.
4. Provide tie cards in the Town's format for each unit/building to all underground utility services. Tie cards to include size and material. At a minimum, swing ties shall be provided to the following features:
 - a. Water – curb stop
 - b. Sewer
 - i. Service location on main line or location of tie in to existing service
 - ii. Fittings
 - iii. Clean-outs
 - c. Gas – gas service valve
 - d. Electric – service vault or hand hole (if applicable)
5. Show size and material for all underground utilities, including both main lines and service lines.
6. Show locations of all relevant utility structures (CBs, MHs, etc.), including rim and invert elevations and manhole diameter.
7. Show utility service penetration locations with dimensions along the foundation.
8. Show foundation dimensions and closest offset to each property line.
9. Provide top of foundation or slab elevation.
10. Provide reference to vertical datum.
11. Provide site topography at one-foot contour intervals or equivalent spot grades.

12. Provide reference to horizontal datum – coordinates of two lot corners or tie to two local permanent monuments.
13. Provide parcel ID, street address, and any previous lot designations.
14. Provide relevant information for direct abutters (now/formerly, parcel ID, etc.) as well as any relevant adjacent structures.
15. Show bearings and distances of all site property lines and related rights of way, accurate to the nearest second and 1/100 of a foot.
16. Show all features of the storm water management system including:
 - a. Pipes with size and material
 - b. Structures with rim and invert information
 - c. Stormwater basins with all necessary topographic information
17. Provide calculations and tables outlining the storage volumes provided in all storm water BMPs. This table should include the proposed and as-built volumes for verification.
18. Show all driveways, walkways, decks, porches, pavement, grassed areas, landscaping, trees in excess of 4" diameter, retaining walls, etc. Provide calculations comparing the approved impervious footprint and the as-built impervious footprint of the development.
19. Show light poles, signs, utility poles, pavement markings, parking meters, etc.
20. Provide a zoning bulk table showing required and existing zoning information (zoning district, offsets, required open space, etc.).
21. Show any/all existing easements with bearings and distances as required in item #15 above.
22. Provide all other measurements accurate to 1/10 of a foot except as noted above.
23. Provide a north a right-of-way (specify true or magnetic).
24. Plan shall be wet stamped, signed, and dated by a registered PLS.

The guidelines listed above are provided as base requirements only. The Town Engineer reserves the right to require or omit any data or information, based on individual circumstances.

APPENDIX A-2

FORM A

**USUAL FORM OF APPLICATION FOR THE ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL**

The applicant shall file one completed copy of an application in the form as shown below with the Planning Board and one copy with the Town Clerk. The tracing and six prints of the plan must be filed with the Planning Board. A print of the plan and application shall be filed with the Town Clerk.

_____, 20__

To: Tewksbury Planning Board
Town Hall
1009 Main Street
Tewksbury, MA 01876

Board Members:

Enclosed is a plan of land owned by _____ in the Town of Tewksbury. This plan is submitted to you for your determination and endorsement that approval under Massachusetts Subdivision Control Law is not required.

The applicant believes that Planning Board approval is not required for the following reason(s):

Address of owner(s): _____

Name and address of Engineer or Land Surveyor preparing plan: _____

Date of Plan: _____, 20__

Location of Property: _____

Assessor's Map(s): _____ Lots(s): _____

Signature of applicant: _____

Address: _____ Address of 2nd property: _____

Signature of Owner: _____ Signature of 2nd Owner: _____

Application and Fee of \$60.00 per lot Received by: _____

Date: _____

APPENDIX A-3

FORM B

APPLICATION FOR APPROVAL OF PRELIMINARY PLAN

The undersigned herewith submits the accompanying Preliminary Plan of property located in the Town of Tewksbury for Approval under the suggested procedure in the Rules and Regulations Governing the Subdivision of Land in the Town of Tewksbury, Massachusetts.

(Please type or print information in blanks below.)

1. Name of Proposed Subdivision_____

2. Name of Applicant(s)_____

Address_____ Phone_____

3. Name of Property Owner(s)_____

Address_____ Phone_____

4. Name of Engineer_____

Address_____ Phone_____

5. Name of Land Surveyor_____

Address_____ Phone_____

6. Deed of property recorded in the Middlesex North Registry of Deeds Book Number

_____, Page Number_____ and/or registered in the Middlesex North

Registry of Land Court, Certificate of Title Number_____.

7. Zoning District_____ Map No.(s)_____ Parcel No.(s)_____

8. Approximate acreage in subdivision_____ Number of lots_____

9. Total length of road(s) in linear feet_____

10. Location and Description of property_____

FORM B (continued)

Signature of Applicant, Date

Signature of Applicant, Date

Signature of Owner, Date

Signature of Owner, Date

ALL owners (in case of a corporation, an authorized officer; in the case of a trust, ALL trustees) must sign.

APPENDIX A-4

FORM C

APPLICATION FOR APPROVAL OF DEFINITIVE PLAN

The undersigned herewith submits the accompanying Definitive Plan of property located in the Town of Tewksbury for Approval as a subdivision under the requirements of the Subdivision Control Law and the Rules and Regulations Governing the Subdivision of Land in the Town of Tewksbury, Massachusetts.

(Please type or print information in blanks below.)

1. Name of Proposed Subdivision _____

2. Name of Applicant(s) _____

Address _____ Phone _____

3. Name of Property Owner(s) _____

Address _____ Phone _____

4. Name of Engineer _____

Address _____ Phone _____

5. Name of Land Surveyor _____

Address _____ Phone _____

6. Deed of property recorded in the Middlesex North Registry of Deeds Book Number

_____, Page Number _____ and/or registered in the Middlesex North Registry of Land Court, Certificate of Title Number _____.

7. Zoning District _____ Town Assessor's Map No. _____ Parcel No.(s) _____

Approximate acreage in subdivision _____ Number of lots _____

Total length of road(s) in feet _____

Location and Description of property _____

FORM C (continued)

Checklist

- _____ Filed complete application with the Town Clerk.
- _____ Filed 11 plan copies in required format with the Planning Board. [Plans: three sets of plans not to exceed 24" x 26" and scale at 1"= 4'-0". Eight sets of plans not to exceed 11" x 17"].
- _____ Filed all required fees with the Planning Board. Check to be made out to the Town of Tewksbury. (See fee schedule.)
- _____ Acknowledgment of applicant responsibility of engineering review fees. The engineering review estimate of \$2,000 must be paid by the applicant prior to commencement of the Public Hearing.
- _____ Filed a certified abutters list for all abutters within 300 feet of the property line. (Certification comes from the Assessor's Office located in the Town Hall Annex.)
- _____ One set of stamped envelopes. One stamped set is for the hearing in which legal abutters must be Certified Mail Return Receipt Requested and abutters to the abutters can be regular mail. Neighboring communities must also be notified by regular mail; see attached list. (Place postage on all envelopes and return address should be Planning Board 1009 Main Street, Tewksbury, MA 01876)
- _____ Filed a letter of authorization for town officials to enter the property
- _____ Filed a complete drainage analysis as required
- _____ Filed all easement plans and recording information as required

I/we certify that I/we have complied with the Tewksbury Planning Board Subdivision Rules and Regulations including, but not limited to, the checklist information listed above.

Applicant(s) Signature, Date

Applicant(s) Signature, Date

Owner(s) Signature, Date

Owner(s) Signature, Date

ALL owners (in case of a corporation, an authorized officer; in the case of a trust, ALL trustees) must sign.

APPENDIX A-5

FORM D

**USUAL FORM FOR ACTION TAKEN BY BOARD ON
A DEFINITIVE SUBDIVISION CONTROL PLAN**

_____, 20__

Town Clerk
Tewksbury, MA

Dear Sir:

The Tewksbury Planning Board hereby certifies that at a meeting of said Board on _____, 20__, at which a majority and quorum was present, following a public hearing by the Board on _____, 20__, and _____ on _____, 20__, a majority VOTED that a subdivision plan and plan and profile of _____ dated _____, 20__, and drawn by _____ registered as an engineer or land surveyor in Massachusetts, submitted for the Board's approval by _____, owner, hereinafter called "the subdivider," by and hereby are approved on condition that prior to the Board's endorsement of its approval thereon the subdivider shall execute an Agreement with the Tewksbury Planning Board, on behalf of the Town of Tewksbury, that no lot depending on said _____ Road for its legal street frontage shall be sold, or buildings or structures erected or placed on, or application for building permits made with respect to, any such lot until:

- a. _____ Road as shown on said plan has been brought to subgrade in accordance with the requirements of the Board, including installation of catch basins, drains and culverts;
- b. Facilities for Town water, complying with the requirements of the Rules and Regulations of the Tewksbury Planning Board, have been installed throughout in conformity with the requirements of the Tewksbury Water Commissioners;
- c. The subdivider has executed a Contract with the Tewksbury Planning Board, on behalf of the Town, accompanied by appropriate security to secure performance to complete construction, including final surfacing in accordance with Rules and Regulations of the Tewksbury Planning Board, on or before a date specified in the Contract of _____ Road and to install stone bounds or other substantial marks to permanently establish the lines of said ways;

FORM D (CONTINUED)

d. The subdivider has recorded in the Middlesex North Registry of Deeds (or Land Court) a certificate executed by the Board that the above conditions, with respect to any such lot, have been performed by him (it) or have been amended, modified, revoked, waived or released by the Board.

Respectfully Submitted,
TEWKSBURY PLANNING BOARD

By: _____, Director of Community Development

Date: _____

APPENDIX A-6

FORM E

RESTRICTIVE COVENANT

In consideration of the approval by the Planning Board of the Town of Tewksbury, Massachusetts (hereinafter referred to as the "Board"), of a plan of land located in Tewksbury, Middlesex County, Massachusetts entitled _____, dated _____, revised _____ by _____, approved by the Board on _____ and the waiver by the Board of a bond or other security for the construction of the ways and the installation of certain services shown on said plan, in compliance with the Town of Tewksbury, Massachusetts (the "Town") Subdivision Rules and Regulations, last amended _____, (the "Developer") having its usual place of business in _____, its successors and assigns, hereby covenant and agree with the Board and the Town as follows:

1. The undersigned Developer is the owner in fee simple absolute of all the land included in the subdivision and that there are no mortgages of record or otherwise on any of said land, except for those described below, and that the present holders of said mortgages have assented to this covenant prior to its execution by the Developer.

2. The Developer shall not sell or convey any lot in the subdivision or erect or place any permanent building on any lot until the construction of ways and installation of municipal services necessary to adequately serve such lot has been completed in accordance with the following:
 - a) The Subdivision Control Law and the Tewksbury Planning Board's Rules and Regulations governing this subdivision.
 - b) The certificate of approval and the conditions of approval specified therein, issued by the Planning board, dated _____.
 - c) The definitive plan as approved and as qualified by the certificate of approval.
 - d) Other document(s), namely:

3. However, a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell or convey any lot, subject only to that portion of this covenant which provides that no lot be sold or conveyed or built upon until ways and services have been provided to serve such lot.

FORM E (CONTINUED)

4. The Developer will expeditiously and diligently proceed to construct the ways shown on the aforesaid plan and in the event that the Board concludes, in its sole discretion, that the Developer is not so constructing such ways, the Developer shall provide additional security other than this covenant sufficient in the Board's opinion for the construction and completion of such ways and services as shown on the aforesaid plan or for a portion thereof. Such additional securities shall. Comply with the requirements of the Town's Subdivision Rules and Regulations, provided, however that the Board shall determine the date by which the work, for which additional security must be posted, shall be completed.
5. This covenant shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the Developer and shall constitute a covenant running with the land included in the subdivision and shall operate as restrictions upon the land.
6. Nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this covenant, of either the entire parcel of land shown on the subdivision control plan or of all lots not previously released by the Planning Board.
7. Particular lots within the subdivision shall be released from this covenant upon the recording of a certificate of performance executed by the Planning Board and enumerating the specific lots to be released.
8. The Developer agrees to record this covenant with the Middlesex North Registry of Deeds, forthwith. Reference to this covenant shall be entered upon the definitive subdivision control plan as approved.
9. A deed of any part of the subdivision in violation of the covenant shall be voidable by the grantee prior to the release of the covenant; but not later than three (3) years from the date of such deed.
10. This covenant shall be executed before endorsement of the approval of the definitive plan by the Planning Board and shall take effect upon such endorsement.
11. Upon final completion of the construction of ways and installation of municipal services as specified herein, on or before _____, the Planning Board shall release this covenant by an appropriate instrument, duly acknowledged. Failure to complete construction and installation within the time specified herein or such later date as may be approved by the Planning Board shall constitute reason for rescission by the Board of the approval of the plan.

FORM E (CONTINUED)

12. Nothing herein shall prohibit the applicant from varying the method of securing the construction of ways and installation of municipal services from time to time or from securing by one, or in part by one and in part by another of the methods described in MGL, Chapter 41, Section 81U, as long as such security, if sufficient in the opinion of the Planning Board, to secure performance of the construction and installation.

13. The land included in the subdivision is encumbered by and subject to the following mortgages which, however, are subordinated to this covenant:

- a) Mortgage granted by the Developer to _____, dated, and recorded with the Middlesex North Registry of Deeds at Book _____, Page _____, and the Middlesex Registry of the Land Court as Document No. _____, and
- b) Other mortgages:

IN WITNESS WHEREOF, the mortgage holder(s) assents to this covenant and agrees to subordinate said mortgage(s) to this covenant, signed under seal as of the _____ day of _____, 20____.

FIRST MORTGAGE HOLDER _____

By _____

SECOND MORTGAGE HOLDER _____

By _____

FORM E (CONTINUED)

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

_____, 20__

Then personally appeared the above named _____, and acknowledged the foregoing instrument to be his/her/its free act and deed and the free act and deed of _____, before me.

Notary Public

My commission expires: _____

IN WITNESS WHEREOF, the Developer(s) has executed this Restrictive Covenant under seal as the _____ day of _____, 20__.

DEVELOPER(S)

By _____

By _____

Approved and accepted by the Tewksbury Planning Board:

_____ Date: _____

APPENDIX A-7

FORM F

RELEASE OF LOTS

CERTIFICATE OF PERFORMANCE

_____, 20____

The Planning Board of the Town of Tewksbury, Massachusetts hereby certifies by means of a vote that the requirement for work on the ground called for by the Restrictive Agreement dated _____, and recorded in the Middlesex North Registry of Deeds, Book _____, Page _____ have been completed to the satisfaction of the Planning Board as to the following designated lots shown on a Plan entitled _____ dated _____, recorded with said Middlesex North Registry of Deeds, Plan Book _____, Page _____, and said lots are hereby released from the restrictions as to sale and building specified thereon. The Planning Board voted to release the following lots on _____.

Lots designated on said Plan, released hereunder: _____

Director of Community Development of the Town of Tewksbury, Massachusetts

By: _____, Director

Date: _____

APPENDIX A-8

FORM G

RELEASE OF LOTS

PROVISION OF SURETY

_____, 20__

The Planning Board of the Town of Tewksbury, Massachusetts, hereby certifies that sufficient surety, in the opinion of said Board has been provided for the cost of the completion of the ways and certain services necessary to provide access and services to certain lots, hereinafter designated, in accordance with the provisions of the Restrictive Agreement dated _____, 20__ and recorded in the Middlesex North Registry of Deeds, Book_____, Page _____, or registered in the Middlesex North District Land Registry, as Document No._____, Page _____ Plan No. ___of 20_____, or registered in said Land Registry District in Plan Book_____, Plan _____and said lots are hereby released from the restrictions as to sale and building specified in the Restrictive Agreement.

Lots designated on said Plan, released hereunder: _____

By: _____ Date: _____

Director of Community Development
Town of Tewksbury

APPENDIX A-9

FORM H

CERTIFICATION OF BOUNDS

I hereby certify that permanent monuments have been accurately installed on _____ (street) and are located as described and shown on the "As Built" plan, dated _____ of said roadway submitted to the Planning Board, Town of Tewksbury, Massachusetts as required by the Tewksbury Subdivision Rules and Regulations.

Furthermore, I certify that the bound traverses had an error of closure of 1:15,000* or better and that these bounds have been set in accordance with the "Procedural and Technical Standards for the Practice of Land Surveying," Section 250 CMR** 5.0 between _____ (date) and _____ (date).

Signed _____
Registered Land Surveyor

Seal of Surveyor

Date _____

Address _____

Registration Number

* As described in the "1989 Manual of Instructions for the Survey of Lands and Preparation of Plans" published by the Land Court of the Commonwealth of Massachusetts, as most recently amended.

** Code of Massachusetts Regulations

APPENDIX A-10

FORM I

PERFORMANCE BOND

SECURED BY BANK PASSBOOK

Known all people by these present that _____

_____, as Principal, hereby binds and obligates him/herself and or its executors, administrators, devisees, heirs, successors and assigns jointly and severally, to the Town of Tewksbury, Massachusetts municipal corporation, in the sum of _____ Dollars, and has secured this obligation by depositing in the name of the Town of Tewksbury the sum of _____ in _____ evidenced by Bank Book No. _____, and by depositing said Bank Book with the Treasurer of the Town.

The condition of this obligation is that if the Principal fully and satisfactorily observes and performs in the manner and in the time therein specified, all of the covenants, conditions, agreements, terms and provisions contained in the application signed by the Principal and dated _____, 20____, under which approval of a definitive plan of a certain subdivision entitled _____ by _____ dated _____, 20____ has been granted by the Planning Board of the Town of Tewksbury, with such modifications or conditions, if any, as have been imposed by the Town acting through its Planning Board then this obligation shall be void, otherwise it shall remain in full force and effect and the aforesaid sums shall be paid to the Town to satisfy and complete the Principal's obligation.

In the event the Principal shall fail to perform its obligation as above set forth, the Town of Tewksbury may, use the funds in said account, or any part thereof, to satisfy and complete the Principal's obligation on said project, without further notice to or consent by the Principal.

Upon completion of all the work required to be completed by the Principal as above set forth, the aforesaid bankbook shall be returned to the Principal.

In witness whereof, the principal has hereunto set his/her hand and seal this _____ day of _____, 20____.

Principal

By: _____

FORM I (CONTINUED)

The _____ Bank hereby acknowledges that it has received notice of the Principal's obligation under this bond, and, in the event the Principal fails to perform said obligation, agrees to pay the Town in accordance with the provisions of this bond.

Authorized Signature

To be executed in 4 copies, all of which are to be considered originals. Two (2) copies are to be forwarded to the above Bank and one (1) signed copy returned to the Planning Board. In addition to the bankbook, the Town should also receive a written assignment of the account and a withdrawal slip signed in blank.

APPENDIX A-11

FORM J

CONVEYANCE OF EASEMENTS AND UTILITIES

_____, a Massachusetts corporation duly organized by law and having a usual place of business in Middlesex County, Massachusetts, for normal consideration paid, hereby grants to the Town of Tewksbury, a municipal corporation in Middlesex County, Massachusetts, with quit claim covenants, the following:

1. The perpetual rights and easements to construct, inspect, repair, remove, replace, operate and forever maintain:
 - a) A sanitary sewer or sewers with any manholes, pipes, conduits and other appurtenances;
 - b) Pipes, conduits and their appurtenances for the conveyance of water; and
 - c) If required by the Planning Board, a covered surface and ground water drain or drains with any manholes, pipes, conduits and their appurtenances, and to do all other acts incidental to the foregoing including the right to pass along and over the land for the aforesaid purposes, in through and under the whole of roadway(s) as shown on a plan

Entitled: _____

Dated: _____

Grantor: _____

Which plan is to be recorded at the Middlesex North Registry of Deeds, to which, reference is made for a more particular bounding description.

2. And, for the consideration of aforesaid, the said grantor does hereby give, grant, sell, transfer and deliver unto the said Town and its successors and assigns, forever, all water, sewer and drain pipes, conduits, manholes, culverts and their appurtenances that have been or will be constructed in the ways and easements shown on the aforementioned plan or such other plans having reference to the affected parcels. This conveyance of easements and utilities and the title to pipes, conduits, culverts and appurtenances, however, shall not pass until such time, if ever, as the Town establishes the ways shown upon said subdivision control plan or plans as public ways.

3. The perpetual right and easement to use in common with other lawfully entitled thereto the roads and ways shown on the aforementioned plans, to which reference is made for a more particular description, for all purposes for which roads and ways are commonly used in the Town.

The said grantor hereby covenants with the grantee that the undersigned is the lawful owner of the foregoing articles; that they are free from all encumbrances; the grantor has good right to sell and transfer the same as aforementioned; and that the said grantor will warrant and defend the same against claims and demands of all persons.

FORM J (CONTINUED)

TO HAVE AND TO HOLD the above designated rights and easements unto the said Town of Tewksbury and its successors and assigns forever.

For grantor's title see deed of _____ Book _____, Page _____ has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged and delivered in its name and behalf by _____ hereby duly authorized this _____ day of _____ in the year _____.

By _____
Grantor

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

Then personally appeared the above named _____ as aforesaid, and _____ as aforesaid, and acknowledged the foregoing instrument to be the free act and deed of _____.

Before me, _____
Notary Public

Commission Expires: _____

APPENDIX A-12

FORM K

DESIGNER’S CERTIFICATE

I hereby certify that the accompany plan entitled _____
_____ dated _____
is correct, stating that the perimeter traverse of the subdivision before adjustment was closed to
an accuracy of an “effort of closure” not to exceed 1:15,000*; that it is a subdivision of _____
acres conveyed by _____ to _____
by a deed, dated _____ and recorded in the Middlesex
North Registry of Deeds, Book _____, Page _____.

Other sources of information used in the preparation of the plan are:

1. Other deeds and plans, as follows: _____

2. Oral information famished by _____

3. Other _____

Furthermore, I certify that this survey was made on the ground in accordance with the
“Procedural and Technical Standards for the Practice of Land Surveying,” Section 250 CMR
**5.0 between _____ (date) and _____ (date).

(Seal of Surveyor)

Signed: _____
Registered Land Surveyor Date

Address: _____

Registration No. _____

* As described in the “1989 Manual of Instructions for the Survey of Lands and Preparation
of Plans” published by the Land Court of the Commonwealth of Massachusetts, as most
recently amended.

** Code of Massachusetts Regulations

APPENDIX B-1

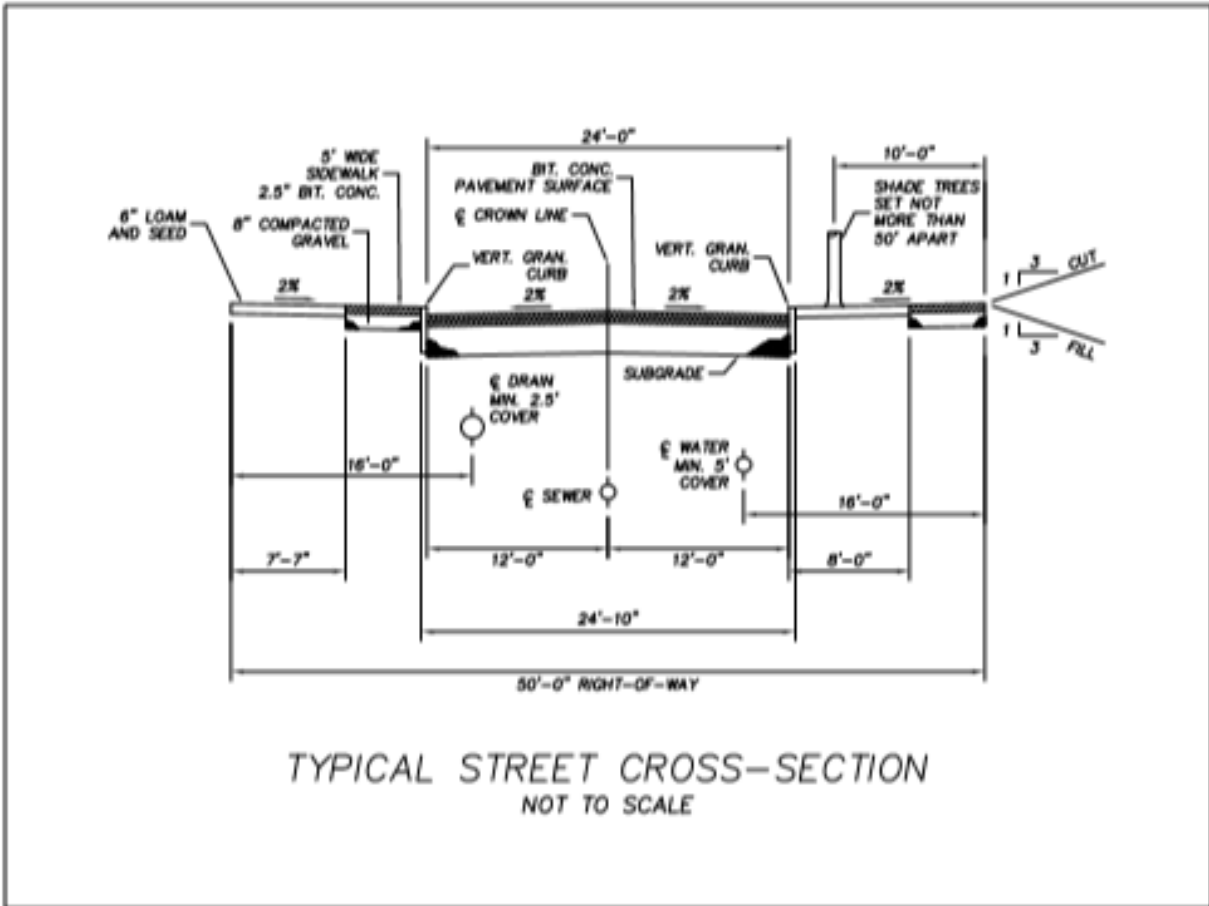
TABLE 1

HORIZONTAL DESIGN STANDARDS

	<u>Right of Way</u>	<u>STREETS</u>	<u>OUTSIDE DIAMETER OF TURNAROUND</u>		<u>TRAVEL WAY</u>
		<u>Paved Surface</u>	<u>Right of Way</u>	<u>Paved Surface</u>	
Industrial/ Commercial	60'	34'	120'	100'	32'
Residential	50'	24'	110'	90'	22'

APPENDIX B-2

TYPICAL STREET CROSS-SECTION



APPENDIX C-1

SUBDIVISION FEE SCHEDULE

Preliminary Plan	\$550.00
Definitive Plan	
Initial Application	\$1,100.00 + \$5.00/foot of road
Modification or Amendment	\$2,100.00 + \$5.00/foot of road
Rescission	\$600.00
ANR Plan	\$60.00 per lot shown on the plan

ENGINEERING REVIEW

The subdivider is also responsible for all engineering review fees encumbered during the professional review of all subdivision control plans submitted. All fees are mandatory and are not refundable.

APPENDIX C-2

TOWN OF TEWKSBURY MASSACHUSETTS DIGITAL DATA SUBMISSION REQUIREMENTS

The Town of Tewksbury Digital Data Submission Requirements applies to any site or subdivision control plan and infrastructure projects (water/sewer/drainage installation or repair, road rehabilitation and other capital improvements). The applicant, person or entity performing the work shall provide the Town with a digital copy of the final approved plans no earlier than one month before the work is scheduled to commence. A digital copy of the as-built drawings will also be required and these will be submitted no later than six months after project completion. The digital copy of the final set of approved plans must follow the requirements listed below:

1. All plans and specifications must be submitted on electronic media. Acceptable file formats include: AutoCAD *.dwg, AutoCAD *.dxf, ArcView *.shp, or ArcGIS Geodatabase. The files must be identical to the printed plan and contain all information included on the “as-built” plan. If plans and specifications are not “Tewksbury GIS Ready” data, as defined below, a \$200 fee per submission shall apply.

“Tewksbury GIS Ready” data is defined as:

- Data delivered digitally in GIS shapefile or geodatabase format.
- The data shall be in the NAD 1983 MA State Plane Coordinate System.
- The data shall be delivered in a way that would create minimal work for the Town staff when they update the GIS system as determined by the Engineering Division.

2. All digital mapping must be delivered in the Massachusetts State Plan Coordinate System with a horizontal datum of NAD83 and a vertical datum of 1927 NGVD. Each plan must include a minimum of one (1) survey-derived (bearings and distances listed) reference to a permanent in-ground feature such as: catch basin, manholes, stone bound, municipal benchmark or other readily identifiable marker. The latitude and longitude of the in ground feature must be provided with accuracy of plus or minus centimeter.

3. Each feature must be organized in the CAD or GIS data structure as a separate layer. For example, there must be separate CAD layers for buildings, roads, road centerlines, surface water, wetlands, sewer, water, storm water, etc. Having all these features in a single CAD layer or GIS file will not be accepted.

4. All data will be topologically clean, meaning that polygons are closed (no overshoots or undershoots) and lines connect at nodes. Features that naturally connect such as driveways to roads must connect seamlessly. Features under text should not be erased or ‘broken’ in order to make text clearer.

5. Documentation of the data format must be provided with a description of the CAD layer and list of the types of features placed in each layer. Submission of multiple files must also include

a list of the files and their purpose.

6. The data submitted must include documentation on the method used to gather the data, the name of the person(s) responsible for preparing the data, contact information, an estimation of the horizontal and vertical accuracy, and the date of data capture. All media shall be free from any and all defects and viruses, and labeled as to their contents.

APPENDIX C-3

HOMEOWNERS ASSOCIATION TRUST TEMPLATE

**DECLARATION OF
PROTECTIVE COVENANTS AND
ESTABLISHMENT OF**

HOMEOWNERS ASSOCIATION TRUST

_____ a Massachusetts _____ (type of organization) _____, Massachusetts (Declarant), is the record title owner of certain land shown on a plan entitled "Definitive Subdivision Control Plan for _____ Tewksbury, Massachusetts" recorded at the Middlesex North Registry of Deeds in Plan Book _____, Plan No. _____ dated _____ (Plan). For Declarant's title, to all of the land shown on the Plan, see deed(s) dated _____ from _____, _____ recorded with the Middlesex North Registry of Deeds in Book _____, Page _____; and

WHEREAS, the Declarant desires to establish a Homeowners Association and a set of Bylaws (Bylaws), all in connection with the above-referenced land and the development of a residential subdivision shown on the Plan;

NOW, THEREFORE, the following is declared.

1. The Declarant submits to this Declaration that a portion of Declarant's land shown on the Plan being those parcels shown as the "Open Space" on the Plan as well as _____, all shown on the Plan and described in the attached Exhibit A.
2. There is established the "_____ Homeowners Association Trust" (Association or Trust), the initial Trustee of which shall be the Declarant. Attached is to the Trust are the Bylaws. Declarant, as the initial Trustee, shall have certain rights to control the Association as provided in the Bylaws. The holders of the beneficial interest in the Trust shall be the Lot Owners here after referred to.
3. The sole purpose of the Association shall be to [set forth in detail]:

_____. The Association is to be solely responsible, using due diligence and best efforts, to maintain, repair and replace all of the foregoing in reasonably the same condition as presently in existence or when constructed or installed, as required by the Planning Board Special Permit, in

perpetuity, for the mutual benefit of the Lot Owners and the Town of Tewksbury (Town).

4. The Association and each of the owners of Lots (Lot Owners) on the Plan (and their successors) shall indemnify and hold harmless the Town and its employees and agents from any responsibility, liability and claims arising out of the maintenance, repair or replacement or related to the maintenance requirements as set forth in the above Section 3. In the event that the Association fails to properly do so, and the Town is called upon to perform any such maintenance, repair, or replacement, the Association and each of the Lot Owners on the Plan (and their successors) shall reimburse the Town for all such expenditures and the Town shall have the right to use any legal means to secure such reimbursement. The Association and each of the Lot Owners (and their successors) consent to the Town as having the right, following fourteen (14) days advance written notice to the Association and to each of the Lot Owners, to place a municipal lien upon the individual Lots shown on the Plan to reimburse the Town for any all expenditures incurred as a result of the failure of the Association to meet its obligations here contained.

In furtherance of the language in the preceding paragraph, the Declarant and its successors and the Association and its successors agree that each Lot Owner shall be liable jointly and severally for all costs incurred by the Town under this Section 4; and if the Association shall not pay such costs within ten (10) days of the Town's demand for such costs, such costs shall be deemed a lien on each Lot Owner's property; and the property of each Lot Owner in the subdivision and to the extent permitted by law, the lien here created shall be prior to all other liens and encumbrances recorded or otherwise attaching to the property and shall be a lien for any such costs incurred by the Town and shall be considered a special assessment upon real estate or other charge or assessment under MGL c. 60 §§ 17 and 23, or pursuant to any other law; and the charges shall be included in the Municipal Lien Certificate issued by the Town. The obtaining and recording of such Municipal Lien Certificate shall not release any lien or charge there shown, and the purchaser of any land or Lot shall make payment in order to discharge the lien or charge.

The Association's Trustees, or its agent, may request the Tewksbury Tax Collector to execute a certificate as to the status of any unreimbursed expenditures that may be due and owing to the Town (in addition to a Municipal Lien Certificate) and third parties dealing with the Association or Lot Owners shall be able to rely upon such Certificate issued by the Town for all purposes including conveyance purposes. In order for the Town to exercise its rights to take such action(s) in the event of the failure of the Association to do so as required by the above Section 3, an easement is here granted to the Town over all of the land described on the Plan to maintain repair, and replace as set forth in the above Section 3; however, all financial responsibility for any such maintenance, repairs, and replacement shall be solely that of the Association and all Lot Owners by virtue of their interest in the Association.

5. Neither the Declarant nor the Association shall have any right to add any land that may also become the subject of this Declaration without the express written permission of the Tewksbury Planning Board after a noticed hearing on application for modification.

6. The Association shall have any and all easements and rights-of-ways necessary to accomplish the purpose as here described and shown on the Plan, and may hold or convey title to interests in real estate consistent with the purpose of the Association.
7. This Declaration is also for the benefit of the Town, who, acting through its Planning Board, may enforce the obligations here contained. This Declaration may not be modified or terminated without the approval of the Tewksbury Planning Board after a noticed hearing on application for modification.
8. The Association shall have the right to make assessments against the Lot Owners for any costs incurred by the Association in connection with all of the stated purposes described above, on a pro rata basis among all of the Lot Owners. Any costs or expenses incurred as a result of a Lot Owner's failure to pay assessments shall be assessed only against said Lot and Lot Owner and shall considered to run with the land.
9. A certificate signed by at least ____ Trustees shall be conclusive evidence in favor of every person relying thereon or claiming that at the time of delivery hereof, or of the taking of such action, the Trust was in full force and effect, that the execution and delivery or taking of such action was authorized, empowered and directed by the beneficiaries, and that such instrument or document or action taken is valid and legally enforceable. Furthermore, any person dealing with the trust estate or the Trustee(s) may always rely without further inquiry on a certificate signed by a majority of the Trustees, as to who are the Trustees or the Beneficiaries of the Trust, or as to the authority of any Trustee to act, or as to the existence or nonexistence of any fact or facts which constitute condition precedent to any action by the Trustees or which are in any other manner germane to the affairs of the Trust.
10. The conduct of the affairs of the Association shall be in accordance with the Bylaws here annexed, as may be amended from time to time, as the Lot Owners may determine.

IN WITNESS WHEREOF, the undersigned Manager has set his or her hand and seal this ____ day of _____, 20__.

_____ (Declarant)

By: _____
 Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

_____, 20__

Then personally appeared the above-named _____, Manager of _____ proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he or she signed it voluntarily for its stated purpose as his or her free act and deed and as the free act and deed of said _____.

Notary Public
My Commission Expires:

EXHIBIT A

HOMEOWNERS ASSOCIATION TRUST SAMPLE BYLAWS

BYLAWS OF THE

HOMEOWNERS ASSOCIATION TRUST

**ARTICLE I
GENERAL PROVISIONS**

1. **PURPOSE:**

The administration of the _____ Homeowners Association Trust shall be governed by these Bylaws which are annexed to the Declaration of the _____ Homeowners Association Trust and made a part thereof, and all present and future owners of any lots within the subdivision (Lot Owners) shall be subject to these Bylaws, as well as to the Declaration and the Rules here promulgated.

2. **BYLAWS APPLICABILITY:**

The provisions of these Bylaws are applicable to the land here described and shall be binding on all Lot Owners and their successors in title. The acceptance of a deed of conveyance of a Lot shall constitute an acknowledgment that such Lot Owner has accepted and ratified the Declaration, these Bylaws, and any Rules here promulgated, and will comply with them.

3. **OFFICE:**

The office of the Association and of the Trustees shall be located at the subdivision or at such other place as may be designated from time to time by the Trustees.

ARTICLE II

LOT OWNERS AS MEMBERS OF THE ASSOCIATION

1. **COMPOSITION:**

All of the Lot Owners shall constitute the beneficiaries of the Association and the Trustees of which shall have the responsibility of administering the obligations set forth in the Declaration establishing the means and methods of collecting assessments, and performing all of the acts that may be required to be performed by the Association.

2. VOTING:

Each Lot shall be entitled to one vote in the Association. Since a Lot Owner may be more than one person, if only one person is present at a meeting of the Association, that person shall be entitled to cast the vote appertaining to that Lot. But if more than one of the persons is present, the vote appertaining to that Lot shall be cast only in accordance with the agreement of a majority of them, and such consent shall be conclusively presumed if any one of them purports to cast the vote appertaining to that Lot without protests being made forthwith by the others to the person presiding over the meeting. As applied to a person which is not a natural person, the word "person" shall be deemed for the purposes of this section to include, without limitation, any one natural person having authority to execute deeds on behalf of such person which is not a natural person and which is, either alone or in conjunction with another person or persons, a Lot Owner. Except where a greater number is required by the Declaration or these Bylaws, a simple majority of votes of the Lot Owners present and in good standing (not owing any money to the Association) and entitled vote shall be decisive. While the Declarant owns a Lot or Lots in the subdivision, the Declarant shall be the Association and may take all actions as if the Declarant owned all of the Lots, as set forth in Article II, 4, below.

3. PLACE OF MEETING:

Meetings of the Association shall be held at the subdivision or at such other suitable place as may be designated by the Trustees and stated in the notice of the meeting.

4. DECLARANT SHALL BE THE ASSOCIATION UNTIL CONVEYANCE OF ALL LOTS:

Until the Declarant has conveyed out all Lots in the subdivision, the Declarant shall be sole Trustee of the Association and may take all actions as if the Declarant owned all of the Lots. Within six (6) months after the conveyance of all of the Lots within the subdivision, the Declarant shall call the first meeting of the Association for the purpose of election of successor Trustees. Thereafter, each annual meeting shall be held within three (3) months of the anniversary date of the first annual meeting. The Trustees shall consist of three (3) members, each of whom shall serve one (1) years terms. The Trustees shall be elected by vote of the Lot Owners.

5. SPECIAL MEETINGS:

The duty of the President is to call a special meeting of the Association if so directed by resolution of the Trustees or upon a petition signed and presented to the Clerk by Lot Owners having not less than fifty (50) percent of the votes of all Lot Owners. The notice

of any special meeting shall set forth the purpose of the meeting, and business shall be transacted at a special meeting as stated in the notice.

6. NOTICE OF MEETING:

The duty of the Clerk is to mail, by United States mail, return receipt requested, a notice of each annual meeting or special meeting, at least twenty-one (21) days in advance of such meeting, stating the purpose of the meeting, as well as the time and place where it is to be held, to each Lot Owner of record, at the address of their respective Lots and at such other address as each Lot Owner may have designated by notice in writing to the Secretary; provided, however, such notice may be hand delivered by the Secretary or manager, if the Secretary obtains a receipt of acceptance of such notice from the Lot Owner.

7. VOTING REQUIREMENTS:

A Lot Owner shall be deemed to be in good standing and entitled to vote at any annual meeting or at any special meeting of the Association if, and only if, he or she shall have fully paid all assessments made or levied and due against him or her or his or her Lot by the Board of Directors as provided below, together with all interest, costs, attorney's fees, penalties and other expenses, if any properly chargeable to him or her and against his or her Lot, at least three (3) days prior to the date fixed for such annual or special meeting.

8. PROXIES:

The vote appertaining to any Lot may be cast pursuant to a proxy executed by or on behalf of the Lot Owner or, where the Lot Owner is more than one person, by or on behalf of all such persons.

9. QUORUM:

A quorum shall be deemed to be present throughout any meeting of the Lot Owners, until adjourned; if persons entitled to cast more than thirty-three and one-third (33 1/3%) percent of the total votes are present at the beginning of such meeting.

10. ORDER OF BUSINESS:

The order of business at all meetings of the Association may be as follows: (a) roll call; (b) recitation of proof of notice of meeting; (c) reading of minutes of preceding meeting; (d) reports of officers; (e) report of Trustees; (f) reports of committees; (g) election of Trustees, if applicable; (h) unfinished business; and (i) new business, any of which may be waived.

11. CONDUCT OF MEETING:

The President, or his or her designated alternative, shall preside over all meetings of the Association and the Secretary shall keep the minutes of the meeting and shall record all transactions occurring and all resolutions adopted at the meeting.

ARTICLE III

TRUSTEES

1. POWERS AND DUTIES:

The affairs and business of the Association shall be managed by Trustees (Trustees) which shall have all of the powers and duties necessary for the administration of the affairs of the Association and of all such acts and things as are specified in the Declaration. The Trustees shall have the power, from time to time, to adopt any rules deemed necessary for the enforcement of the Declaration. The Trustees may delegate to one of its members the authority to act on behalf of the Trustees on all matters which might arise between meetings of the Trustees. In addition to the general duties imposed by these Bylaws, the Trustees shall have the power to, and be responsible for, the following:

- a. Preparation of an annual budget, in which there may be, established the assessment of each Lot Owner;
- b. Making assessments against Lot Owners to defray the common expenses, establishing the means and methods of collecting such assessments, depositing the proceeds thereof in a bank depository which the board of Trustees shall approve, and using the proceeds to carry out the purpose of the Declaration. Unless otherwise determined by the Board of Trustees, the annual assessments against each Lot Owner for their proportionate share of the common expenses shall be payable in equal monthly installments to be due and payable in advance of the first day of each month for such month. The term common expenses, shall include, but not be limited to the following:
 - i. All costs incurred in performing the maintenance in Section 3 of the Declaration; and
 - ii. Any other actions authorized or taken pursuant to the Declaration or these Bylaws including the procurement of liability and other forms of insurance as the Trustees may deem necessary and appropriate from time to time.
- c. Making and amending Rules respecting the provisions of the Declaration, these Bylaws and such Rules promulgated hereunder, and bringing any legal process which may be authorized and instituted on behalf of the Lot Owners;
- d. Maintaining the books of account showing the receipt and expenditures of the Association.

The books shall be available for examination by the Lot Owners, their duly authorized agents or attorney, during general business hours on business days; and

- e. To do such other things and acts not inconsistent with the Declaration which it may be authorized to do by a resolution of the Association.

ARTICLE IV

OFFICERS

1. DESIGNATION:

The principal officers of the Association shall be a President, a Secretary, and a Treasurer, all of whom shall be elected by the Board of Trustees. The Trustees may appoint assistants or such other officers as in its judgment may be necessary. With the exception of the President, no officer need be a Trustee. The offices of the Treasurer and Secretary may be held by the same person.

2. ELECTION OF OFFICERS:

The officers of the Association shall be elected annually by the Board of Trustees at the organization meeting of each new Board of Trustees and shall hold office at the pleasure of the Board of Trustees. Any vacancy in an office shall be filled by the Board of Trustees at a regular meeting or a special meeting called for such purpose.

3. REMOVAL OF OFFICERS:

The officers shall hold office until their respective successors have been chosen and qualify in their stead. Any officer elected or appointed by the Trustees may be removed at any time by the affirmative vote of a majority of the whole Board of Trustees, and his or her successor may be elected at any regular meeting of the Trustees, or at any special meeting of the Trustees called for such purposes.

4. PRESIDENT:

The President shall be the chief executive officer; he or she or his or her designated alternate shall preside at meetings of the Association if present at meetings of the Trustees and shall be an ex officio member of all committees; he or she shall have general and active management of the business of the Association and shall see that all order and resolutions of the Trustees are carried into effect. He or she shall have all of the general powers and duties which are usually vested in or incident to the office of the President of a stock corporation organized under the laws of the Commonwealth of Massachusetts.

5. SECRETARY:

The Secretary, or his or her designated alternate, shall attend all meetings of the Board of Trustees and all meetings of the Association; shall record the minutes of all proceedings in the record book of the Association; shall perform like duties for committees when required; shall keep the record book current and in his or her custody; shall give, or cause to be given, notice of all meetings of the Association, the Board of Trustees, and committees; shall perform such other duties as may be prescribed by the Board of Trustees or the President; shall compile and keep current at the principal office of the Association a complete list of the Lot Owners and each Lot Owner's last known post office address. This list shall be open to inspection by all Lot Owners and other persons lawfully entitled to inspect the same at reasonable hours during regular business days.

6. TREASURER:

The Treasurer shall have the custody of all funds and securities that are not under the control of the Manager, and, with the assistance of the Manager, shall keep full and accurate records of receipts and disbursements; shall prepare all required financial data; and shall deposit all monies and other valuable personal property in such depositories as may be designated by the Board, where possible, taking proper vouchers for such disbursements; and shall render to the President and Directors at the regular meeting of the Board of Trustees, or whenever they may require it, an account of all his or her transactions as Treasurer and of the financial conditions of the Association.

7. AGREEMENTS, CONTRACTS, DEEDS, CHECK, ETC:

All agreements, contracts, deeds, leases, checks, and other instruments of the Association for expenditures or obligations may be executed by any officer of the Association or by such other person or persons as may be designated by the Trustees.

8. COMPENSATION OF OFFICERS:

No officer shall receive any compensation from the Association for acting as such.

ARTICLE V

OPERATION OF THE PROPERTY

1. DETERMINATION OF COMMON EXPENSES AND ASSESSMENTS AGAINST OWNERS:

a. Fiscal Year. The fiscal year of the Association shall be the twelve (12) month period commencing on January 1st of each year and terminating on December 31st. The fiscal year established shall be subject to change by the Trustees.

b. Preparation and Approval of Budget. Each year the Trustees shall adopt a budget for the Association containing an estimate of the total amount which it considers necessary to pay the costs of maintenance of the Open Space. Such budget shall also include such reasonable reserves the Trustees consider necessary to provide general operating reserves and reserves for contingencies and replacements. The Trustees shall make reasonable efforts to send to each Lot Owner a copy of the budget, in a reasonably itemized form, which sets forth the amount of the common expenses payable by each Lot Owner, at least fifteen (15) days in advance of the fiscal year to which the budget applies.

2. COMMON EXPENSES

Declarant has deposited the sum of \$1,000 in the Association's account. All Lot Owners shall be obligated to pay the common expenses assessed by the Trustees pursuant to the provisions of the Declaration and these Bylaws. The Association account shall be maintained with a minimum balance of not less than **\$1,000.00** at all times. No Lot Owner may exempt himself or herself from liability for his contribution of the Maintenance Responsibility by abandonment of his or her Lot. No Lot Owner shall be liable for the payment of any part of the common expenses assessed against his or her Lot subsequent to a sale, transfer or other conveyance by him or her of such Lot. The purchaser of a Lot and any successor owner by virtue of such transfer or other conveyance shall be jointly and severally liable with the selling owner for all unpaid assessments against the Lot expenses up to the time of conveyance, without prejudice to the purchasers' right to recover from the selling owner the amounts paid by the purchaser therefore; provided however, that any such selling owner or purchaser shall be entitled to a recordable statement from the Board of Trustees setting forth the amount of unpaid assessments against the Lot conveyed, subject to a lien for any unpaid assessments in excess of the amount therein set forth; failure to furnish or make available such statement within twenty one (21) days from receipt of such request shall extinguish the lien for any unpaid assessments. Payment of a minimum fee of ten (\$10.00) dollars shall be required as a prerequisite for issuance of such statement. If a mortgagee holding a first mortgage of record or purchaser of a Lot obtains title to the Lot as a result of foreclosure of a first mortgage, or through the enforcement of any other remedies provided for in such mortgage, or any successors shall not be subject to a lien for the payment of common expenses assessed prior to the acquisition of title to such Lot by such mortgagee or purchaser pursuant to the aforesaid remedies. Such unpaid share of common expenses assessed prior to the acquisition of title to such Lot by such mortgagee or purchaser pursuant to the aforesaid remedies shall be collectible from all owners, including, the purchaser or first mortgagee, in proportion to their respective votes in the Association.

ARTICLE VI

RIGHTS RESERVED TO THE DECLARANT

1. RIGHTS RESERVED TO DECLARANT:

The Declarant intends and reserves the right, but not the obligation, to operate the Association until all of the Lots here covered have been conveyed to parties unrelated to the Declarant.

ARTICLE VII

AMENDMENT TO BYLAWS

1. AMENDMENTS:

The Declaration and these Bylaws may be modified or amended either (a) by vote of at least seventy-five (75%) percent of the Lot Owners cast in person or by proxy at a meeting duly held in accordance with these provisions, provided that notice of the proposed amendment shall have been given each Lot Owner simultaneously with the notice of such meeting; or (b) pursuant to a written instrument duly executed by at least seventy-five (75%) percent of the Lot Owners; provided, however, that until the control of the Association has been turned over to the Lot Owners, as provided in Article II, 4, the Declarant shall have the sole right to make such amendments. Notwithstanding the foregoing, no amendment or modification shall compromise the proper operation of the drainage system or any requirement regarding inspections and certifications. No modification or amendment shall be made to the provisions of the Declaration of _____ Homeowner's Association without prior approval of the Tewksbury Planning Board after a noticed hearing on application for modification.

ARTICLE VIII

RESOLUTION OF DISPUTES

1. RIGHT TO ARBITRATION:

In the event of any dispute (i) between the Trustees, or (ii) between the Lot Owners, or (iii) between the Lot Owners and the Trustees (each a "Disputing Party"), as to any matter involving this Trust, and where such dispute shall not have been resolved within fourteen (14) days after notice, then any of the Disputing Parties shall submit the matter to arbitration.

2. SELECTION OF ARBITRATORS:

The party desiring arbitration shall notify the other party of his or her intention in writing and shall name one (1) arbitrator. The other party shall respond in writing within fourteen (14) days with the name of a second arbitrator. The two (2) arbitrators shall then select a

third arbitrator.

3. ARBITRATION PROCEDURE:

The duty of the three (3) arbitrators so selected is to settle the dispute brought before them. If any arbitrator refuses to appear at any meeting appointed by the arbitrators, a majority of two (2) may act without the absent arbitrator. The decision of the arbitrators shall be binding and acted upon without unreasonable delay. Any arbitration conducted under the provisions of this Section shall follow the rules and procedures of the American Arbitration Association. The cost of such arbitration shall be shared equally by both parties.

IN WITNESS WHEREOF, the Declarant has caused these Bylaws to be executed this ____ day of _____, 20__.

_____(Declarant)

By: _____
Manager

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss. _____, **20__**

Then personally appeared the above-named _____, Manager of _____ proved to me through satisfactory evidence of identification, which was _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he or she signed it voluntarily for its stated purpose as his or her free act and deed and said organization.

Notary Public
My Commission Expires:

APPENDIX C-4

RECOMMENDED STREET SHADE TREES LIST

The following tree species are recommended for planting along Tewksbury streets and within the Town's Right-of-Way. Other tree species maybe requested and approved after review by the Town Tree Warden having jurisdiction over street trees in accordance with MGL Chapter 87. Additional species may be recommended for planting in larger open public spaces as grove or specimen trees. Trees should be guaranteed for one full year after planting, having retained 95% of its canopy.

Small Trees

Should be selected where limited soil volumes exist or where growth habit is limited both vertically and horizontally by other landscape elements and scale such as overhead wires or proximity to buildings. They may also be selected for desired species' features.

- *Acer buergerianum* – Trident Maple
- *Acer campestre* – Hedge Maple
- *Acer griseum* – Paperbark Maple
- *Acer truncatum* – Purpleblow Maple
- *Amelanchier arborea* – Downy Serviceberry
- *Amelanchier leervis* – Allegheny Serviceberry
- *Amelanchier canadensis* – Shadblow Serviceberry
- *Amelanchier x grandiflora* – Apple Serviceberry
- *Cornus kousa* – Korean Dogwood
- *Cornus x rutgersensis* – Flowering Dogwood hybrid
- *Crateagus crusgalli* var *inermis* – Thornless Cockspur Hawthorn
- *Crateagus phaenopyrum* – Washington Hawthorn (Washington Lustre of Princeton Sentry)
- *Malus* spp. – Crabapple (species to be reviewed)
- *Syringa reticulata* – Japanese Tree Lilac

Medium Size Trees

Should be selected where planting sites have an intermediate amount of soil volume (Green belts six (6) feet or greater) but may have vertical and horizontal restrictions.

- *Carpinus betula* – European Hornbeam
- *Carpinus caroliniana* – American Hornbeam
- *Cladrastis kentukea* (lutea) – Yellowwood
- *Corylus colurna* – Turkish Filbert
- *Eucommia ulmoides* – Hardy Rubber Tree
- *Halesia carolina* – Carolina Silverbell
- *Maackia amurensis* – Amur Maackia

- *Ostrya virginiana* – American Hophornbeam
- *Prunus maackii* – Amur Chokecherry
- *Prunus sargentii* (var) – Sargent Cherry
- *Prunus yedoensis* – Yoshino Cherry
- *Pyrus calleryana* (var)
- *Sorbus alnifolia* – Korean Mountain Ash
- *Zelkova serrata* – Japanese Zelkova

Large Size Trees

Typically referred to as shade trees, these selections should be chosen where large soil volumes and open spaces exist with no vertical or horizontal restrictions exist.

- *Acer rubrum* – Red Maple
- *Acer saccharum* – Sugar Maple
- *Acer freemanii* – Freeman Maple
- *Celtis laevigata* – Sugar Hackberry
- *Celtis occidentalis* – Common Hackberry
- *Gleditsia triacanthos* – Thornless Honeylocust
- *Gymnocladus dioicus* – Kentucky Coffeetree (Male only)
- *Liquidambar styraciflua* – American Sweetgum
- *Liriodendron tulipifera* - Tuliptree
- *Platanus x acerifolia* – London Planetree
- *Platanus occidentalis* – American Sycamore
- *Quercus* (species) –
- *Styphnolobium japonicum* – Japanese Pagodatree
- *Tilia americana* – American Linden
- *Tilia cordata* – Littleleaf Linden
- *Tilia tomentosa* – Silver Linden
- *Ulmus americana* – American Elm cultivars (Dutch Elm Disease resistance)
- *Ulmus parvifolia* – Lacebark Elm