RULES AND REGULATIONS

OF THE

PLANNING BOARD

ACTING AS A

BOARD OF SURVEY

CITY OF NEWTON, MASSACHUSETTS

1997

RULES AND REGULATIONS

of the

PLANNING & DEVELOPMENT BOARD

acting as a

BOARD OF SURVEY

Governing the Preparation of Petitions

and Plans to be Submitted to the Planning & Development Board

Acting as a Board of Survey

Under Massachusetts General Laws Ch. 41, Secs. 81K-81GG

City of Newton Massachusetts

Revised Through February 1984

Rules & Regulations Adopted March 16, 1978

Revisions Adopted February 27, 1980

Revisions Adopted February 14, 1984

Revisions Adopted July 7, 1997

RULES AND REGULATIONS
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PLANNING BOARD ACTING AS A
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SECTION I. - GENERAL

A. Purpose

The Planning Board as adopted the following set of Rules and Regulations governing the subdivision of land for the purpose of protecting the safety, convenience and welfare of the inhabitants of Newton. These Rules and Regulations are intended to:

Provide for adequate access to all the lots in a subdivision by ways that will be safe and convenient;

lessen congestion in such ways and in the adjacent public ways;

reduce danger to life and limb in the operation of motor vehicles;

secure safety in the case of fire, flood, panic and other emergencies;

insure compliance with applicable zoning ordinances or by-laws;

secure adequate provisions for water, sewerage, drainage, underground utility services, fire, police and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision;

coordinate the ways in a subdivision with each other, with the public ways in Newton and with the ways in neighboring subdivision;

insure compliance with the recommendations or the Commissioner of Health;

preserve and protect the aesthetics and environment of the subdivision or other development; and

minimize any adverse impact of a subdivision or other development upon adjacent uses of land.

B. Authority as a Board of Survey

1. History, 1913 Through Adoption of Subdivision Control Law

The Planning Board was created December 3, 1913, by an order passed by the Board of Aldermen, under General Laws, Chapter 41, Sections 70, 71 and 72. Its duties under this authority were limited to making careful studies of the resources, possibilities and needs of the City, particularly with reference to conditions injurious to public health or otherwise in and about rented dwellings; to making plans for the development of the municipality, with special reference to proper housing of its inhabitants.

On May 20, 1925, the Board of Aldermen by Order No. 55335, accepted the Board of Survey Act, General Laws, Chapter 41, Sections 73 to 81 both inclusive, and Chapter 35 of the Acts of 1925 enabling the Planning Board, upon vote of the Board of Aldermen, to act as a Board of Survey.

On April 17, 1939, upon recommendation of the Planning Board, the Board of Aldermen by Order No. 78862, approved by the Mayor April 20, 1939, accepted Sections 81F, 81G, 81H, 81I and 81J of Chapter 211 of the Acts of 1936, entitled "Improved Method of Municipal Planning." These sections are in addition to and in amendment of the Board of Survey Act.

Under this act the Planning Board acting as a Board of Survey passes upon the opening of private ways for public use, approving modifying and approving or disapproving the layout of such ways as to location, alignment, grade and drainage.

On June 6, 1949, upon recommendation of the Planning Board, the Board of Aldermen by Order No. 95082, approved by the Mayor June 8, 1949, accepted Sections 81K to 81U both inclusive of Chapter 340 of the Acts of 1947, entitled "an Act to Clarify and Amend the Laws Providing an Improved method of Municipal Planning." These sections amend Sections 81F, 81G, 81H, 81I and 81J of Chapter 211 of the Acts as presently amended by Chapter 674 of the Acts of 1953, including revisions and amendments through 1968 (Chapter 41 G.L., Sections 81K to 81GG inclusive).

2. Authority and Organization to June 30, 1976

Revised Ordinances (1973), Section 15-1 provides:

> "The Planning Board shall have all the powers and duties provided for such boards of law. Such board shall consist of seven members, including the Director of Public Works and the City Engineer as ex-officio members of the board. Upon the expiration of the term of office of any of the appointed members, his successor shall be appointed for the term of three years from the date of his appointment. The members of the board shall serve without compensation."

3. Authority and Organization as of July 1, 1976

On December 15, 1976, the Board of Aldermen by Board Order No. 345-75(5) accepted Chapter 705 of the Acts of 1975 which authorized, in part, the consolidation of the Planning Board within a new comprehensive department entitled "The Department of Planning and Development" which became effective July 1, 1976.

On December 15, 1976, the Board of Aldermen by Board Order No. 345-75(6) amended Chapter 15 of the Revised Ordinances of 1973 which amendments become effective July 1, 1976. Section 15-1(b) of the Revised Ordinances provides that on and after July 1, 1976, the Planning Board shall be included in the Department of Planning and Development. Section 15-3(a) provides, on and after July 1, 1976:

> There is hereby established in accordance with Section 7-3 of the City Charter a Planning Board of five (5) members appointed for five-year overlapping terms such that the term of one members expires on February 1 of each year.

Except for the inclusion of the Planning Board within the Planning and Development Department for purposes of interagency coordination, and except for the specific provisions of section 15-3(a) of the Revised Ordinances governing the length of terms of the Board's members, the Planning Board's duties acting as a Board of Survey in administering the Subdivision Control Law (Mass. Gen. Laws ch. 41, sections 81K through 81GG, as amended) remain unaffected by ch. 705 of the Acts of 1975, Board Order Nos. 345-75(5), and 345-76(6) amending article 15 of the Revised Ordinances.

C. Adoption of Rules and Regulations

Under the authority vested in the Planning Board of the City of Newton acting as a Board of Survey, Section 73 to 81, Chapter 41 of the General Laws, said Board adopts these amended and revised rules and regulations governing the subdivision of land in the City of Newton. After the

publication of appropriate notices, a public hearing concerning the adoption of these rules and regulations was held on March 16, 1978, in accordance with M.G.L. ch. 41, Sec. 81Q. Thereafter, the Planning Board adopted these rules on March 16, 1978, and a copy was filed with the City Clerk on April 21, 1978, and a certified copy was filed at Middlesex (South) Registry of Deeds on April 28, 1978.

D. Effect of Approval of Subdivision

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

E. Definitions

These definitions Rules and Regulations hereby incorporate by reference the definitions set forth in Mass. Gen. Laws ch. 41, sec. 81L. The following definitions complement or supplement those statutory definitions:

1. Applicant	An owner, or his agent, representative, or assigns (Mass. Gen. Laws ch. 41, sec. 81L) or duly authorized governmental agency, which by statute must obtain approval of local boards, prior to acquiring land on an eminent domain proceeding.
2. Board:	The Planning Board of the City of Newton.
3. Developer and/or Subdivider:	An applicant who submits to the Planning Board for approval a preliminary or definitive plan.
4. Final Approval:	Approval by the Board of a definitive plan submitted in accordance with Section IV.B of these Rules and Regulations and Mass. Gen. Laws ch. 41, sec. 81T.
5. Frontage:	A lot boundary line which abuts a public or private way, or as further defined in the Newton Zoning Ordinance.
6. Lot:	An area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings complying with the area, frontage and other requirements of the Zoning Ordinance of the City of Newton (Mass. Gen. Laws ch. 41, sec. 81L).

7. Mass. Gen. Laws: The General Laws of the Commonwealth of Massachusetts, as amended.

8. Municipal Services: Public utilities furnished by the City of Newton or by a privately owned company, such as water, sewerage, and electricity (Mass. Gen. Laws ch. 41, sec. 81L).

9. Owner: The owner of record as shown by the records in the Middlesex County South Registry of Deeds or Land Registry District.

10. Person: An individual, two or more individuals, a partnership, association or corporation.

11. Plan:

a. Definitive: A plan of a proposed subdivision or resubdivision submitted in accordance with Section IV.B. of these Rules and Regulations and Mass. Gen. Laws ch. 41, secs. 81T and 81U.

b. Preliminary: A plan of a proposed subdivision or resubdivision submitted in accordance with Section IV. A. of these Rules and Regulations and Mass. Gen. Laws ch. 41, sec. 81S.

12. Profile: A vertical section of streets, storm drainage and sanitary sewer facilities.

13. Registered Mail: Registered or certified mail.

14. Registry of Deeds: The Registry of Deeds of Middlesex South District, including when appropriate, the recorder of the Land Court.

15. Roadway: The portion of a street intended for vehicular use.

16. Rules and Regulations: The <u>Rules and Regulations Governing the Subdivision of Land in Newton, Massachusetts</u> as adopted and amended by the Newton Planning Board pursuant to Mass. Gen. Laws ch. 41, sec. 81Q.

17. Street:

a. Suburban Arterial: A street which, in the opinion of the Board, is being or will

	be used primarily as a thoroughfare between different cities and/or towns.
b. Neighborhood Collector:	A street which in the opinion of the Board, is being or will be used to collect traffic from several residential streets.
c. Residential:	A street which, in the opinion of the Board, is being or will be used primarily to provide access to the lots abutting on such street.
18. Subdivider:	See Developer.
19. Subdivision:	Subdivision shall mean the division of a tract of land into two or more lots or a resubdivision, all as defined in Mass. Gen. Laws ch. 41, sec. 81L.

SECTION II. ADMINISTRATION

A. VARIATION

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgement of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Laws, and/or The Revised Ordinances of the City of Newton, Massachusetts, dated 1973, including any subsequent amendments.

B. REFERENCE

For matters not covered by these rules and regulations, reference is made to Sections 81L to 81GG, inclusive, of Chapter 41 of the General Laws; Chapter 40A; and Sections 1 to 7 inclusive of Chapter 40B.

C. CITY ENGINEER AS CLERK

1. The Clerk of the Planning Board acting as a Board of Survey is the City Engineer, City Hall, 1000 Commonwealth Avenue, Newton Centre, as provided under General Laws, Chapter 41, Section 73.

2. The Clerk of the Board is empowered to sign for the Board the written endorsement of approval on the plans so approved (notification of said power has been sent to the Registry of Deeds and Land Court for Middlesex County, Southern Registry, as required under Mass. Gen. Laws ch. 41, sec. 81X), and is empowered to sign for the Board the written endorsement of "no subdivision approval required" on plans. (Notification of said power has been sent to said Registry and Land Court as required under Mass. General Laws, ch. 41, sec. 81P).

3. The amount of performance bond, deposit of money or negotiable securities to cover the cost of all improvements are to be as estimated by the City Engineer.

4. The inspection and control of all improvements specified under Section IV is under the supervision of the City Engineer.

   a. The cost of all material testing shall be borne by the Applicant, Developer or Contractor for the Developer.

   b. General Construction Details and applicable current City of Newton Standard Specifications - Special Provisions are available at the office of the City Engineer for reference.

5. The Clerk of the Board shall attend all public hearings, and all working sessions for which the Chairman of the Board deems his presence necessary.

6. Upon receiving an application for a proposed subdivision or proposed lot development, the Clerk of the Board shall inform each appropriate city board, department or agency, when a portion of a proposed subdivision or proposed lot development may require subsequent review by that board, department or agency, or may require the provision of services by that board, department or agency.

D. Expenses

All expenses incurred for surveys, plans, calculations, designs, etc., as required by these Rules and Regulations shall be borne by the petitioner or applicant.

E. Application Forms; Fees (Revised & Adopted 7/7/97)

Application forms to accompany plans submitted to the Planning Board for review may be obtained at the Board located in the City Engineer's office.

- APPROVAL NOT REQUIRED: The fee for applying for approval under M.G.L. ch. 41, sec. 81P and Section III of these Rules and Regulations is $50/plan + $50 per new building lot created.

- PRELIMINARY: The fee for submitting a preliminary plan under M.G.L. Ch. 41, sec. 81S and Section IV. A. of these Rules and Regulations is $100.00.

- DEFINITIVE: The fee for submitting a definitive plan under M.G.L. Ch. 41, Sections 81T and 81U and Section IV. B. of these Rules and Regulations is $500 + $100/lot (Residential) and $500 + $250/10,000 sq. ft. of land area (all other).

- SPECIAL 2-LOT SUBDIVISIONS: The fee is $100 plus direct expenses under SECTION VII. A. (Adopted 7/7/97)

F. Effect of Incomplete or Incorrect Application

Copies of each application shall be filed in the form and numbers prescribed in these Rules and Regulations, together with such other information as the Board may further lawfully prescribe.

Any communication purporting to be a petition or application shall be treated as a mere notice of intention to file, until such time as the application is filed in the manner prescribed and is accompanied with such other information and plans as are also prescribed. The Clerk of the Board shall forthwith notify the applicant of said incorrect or incomplete aspects of the applications, and return the application to allow its correction.

This section shall in no way supersede M.G.L. ch. 41, sec. 81Q, para. 2, but regulates solely the effective date of application.

G. Compliance With Zoning Ordinances

No plan of a subdivision shall be approved unless all of the lots shown on the plan comply with the provisions of the Zoning Ordinances with regard to size, shape, width and frontage. Compliance with size; i.e., area, requirements shall also include consideration of the percentage of lot area which is zoned as flood plain or watershed area designated by the Newton Zoning Ordinance.

H. Filing Plans in Registry of Deeds or in Land Court

Approval of all subdivisions are subject to condition that, unless an appeal has been taken from such approval as provided by Mass. Gen. Laws, ch. 41, sec. 81BB the subdivider will record the subdivision plan in the Middlesex Registry of Deeds, South District, or the Land Court within six months from date of its approval and certify to the Planning Board, in writing, within six months from date of approval, that said plan has been so recorded, giving Date Recorded, Plan, Book and Page Number or Certificate Number. Failure to file said plan shall render any approval null and void.

I. Modification to Approval

No changes or alterations shall be made to any aspect of an approved Definitive Plan without resubmission for approval of the Planning Board in

accordance with Mass. Gen. Laws ch. 41, secs. 81Q and 81W.

J. Acceptance of Streets

Final approval of the Definitive Plan does not constitute the laying out or acceptance by the City of streets within a subdivision. However, the Board of Aldermen has indicated by resolution set forth in the Appendix at page A-1 its general policy with respect to acceptance of streets within a subdivision.

K. Joint Hearing With the Board of Aldermen Acting as a Special Permit Granting Authority

In order to minimize hardship and delay, and to promote a prompt coordinated review of the submission, the Planning Board acting as a Board of Survey shall attempt to hold joint hearings and working sessions with the Board of Aldermen acting as a special permit granting authority for developments which fall within the jurisdiction of both boards. Such developments include, without limiting the applicability of this subsection, 1) cluster subdivisions with designated open space, and 2) single lots with more than two buildings which buildings are used for residential purposes.

SECTION III. PLANS BELIEVED NOT TO REQUIRE APPROVAL AS A SUBDIVISION

A. Submission

Any person, who wishes to cause to be recorded with the Register of Deeds or to be filed with the Land Court a plan of land situated in the City of Newton, who believes that his plan does not require approval under the Subdivision Control Law in accordance with Mass. Gen. Laws ch. 41, sec. 81P, may submit his plan, together with one print and one copy (Revised and adopted 2/27/80) of application Form A with Attachment (Appendix at page A-2), properly executed, and the proper fee, to the Clerk of the Planning Board.

The plan shall be accompanied by evidence designed to show that such plan does not require approval.

Failure to comply with the requirements set forth in this Section (III) for submission, form and contents shall constitute an incomplete or incorrect application governed by subsection II.F.

B. Contents (Revised and adopted 2/27/80)

All plans shall be drawn to scale.

1. Title, north point, date of survey and scale.
2. Name of owner of record.
3. Name and address of Registered Land Surveyor or Registered Professional Civil Engineer.
4. Names of all abutters as they appear on the most recent tax list.
5. Lines of existing and proposed streets, ways and easements.
6. Existing and proposed boundary lines, including dimensions and areas of all lots shown.
7. Lot and/or house numbers.
8. Location of all existing buildings, structures and bounds.
9. Suitable space to record the action of the Planning Board and signature of the Clerk acting in behalf of the five members of the Board.
10. Any other information necessary for the Board's determination.

The plan to be recorded shall conform to the Rules and Regulations of the Middlesex Registry, South District, under M.G.L. ch. 36, sec. 13A, or of the Land Court, whichever is applicable.

C. Determination

The Clerk of the Planning Board, having been empowered to act on behalf of the majority of the Planning Board, may perform the following duties of the Planning Board:

1. If it is determined that the plan does not require approval of the Board, then the Clerk, without a public hearing, shall forthwith endorse on the plan the words "Approval under the Subdivision Control Law is not required." There may be added to such endorsement a statement of the reason for which approval is not required.

2. If it is determined that the plan does require approval under the Subdivision Control Law, the Clerk will so inform the applicant and return the plan; the Clerk of the Board will also notify the City Clerk of the aforesaid action.

3. If no action has been taken upon a plan submitted under this section, or if the City Clerk and the applicant have not been notified of any action within 21 days, M.G.L., Acts of 1987, ch. 122, after said submission, then the plan will be deemed as approved by operation of law under the Subdivision Control Law, and the Clerk of the Board shall so endorse the plan.

SECTION IV. PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS

A. Preliminary Plan

1. General

A Preliminary Plan of a subdivision may be submitted by the subdivider by filing with the Clerk of the Planning Board and with the Health Commissioner for discussion and approval, modification or disapproval by each Board. The submission of such Preliminary Plan will enable the subdivider, the Planning Board, the Board of Health, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case.

A properly executed application Form B (See Appendix at page A-3) shall be filed with the Preliminary Plan submitted to the Planning Board. Fifteen prints, including the copy filed with the Health Commissioner, of each plan and profile and application form, copies of which will be distributed to other City boards and agencies, must be submitted at the time of filing together with the proper application fee.

The applicant, in accordance with Mass. Gen. Laws ch. 41, sec. 81S, shall file by delivery or registered mail a notice with the City Clerk stating the date of submission for such approval of a Preliminary Plan and accompanied by a copy of the completed application (Form B, see Appendix at page A-3).

Subsection II F. of the Rules and Regulations shall apply to said application, if the applicant fails to comply with requirements for submission and contents in this section (IV).

2. Contents

The Preliminary Plan shall be drawn on tracing paper with pencil at a 1" = 40' scale and fourteen prints shall be filed at the office of the Clerk of the Planning Board acting as a Board of Survey, and one print at the office of the Health Commissioner. The Clerk of the Planning Board acting as a Board of Survey shall distribute the Preliminary Plan to the Fire Department, Conservation Commission and Director of the Department of Planning and Development. Said plan shall be identified as a Preliminary Plan and show the following information:

a. Title and north point.

b. Name of owner of record.

c. Names of all abutters as they appear on the most recent tax list.

d. The location of all permanent monuments, natural objects such as waterways, large trees, drainage courses, large boulders or ledge outcroppings, stone walls, and the like.

e. Proposed roads with the proposed layout of storm drains, water supply, sewage disposal system and all necessary easements.

f. Dimensions and areas of lots, the total area devoted to lots and streets, and the total area encompassed by the plan.

g. The general relation of the proposed roads, water, sewer and drainage systems and easements to adjoining properties and ways.

h. Portions of any lots or land which are within or immediately adjacent to the subdivision and which are designated as Flood Plain/Watershed areas by the Newton Zoning Ordinance or as Wetland areas under M.G.L. ch. 131, sec. 40 and 40(A).

Submitted with the Preliminary Plan shall be a profile drawn to a horizontal scale of 1' = 40' and a vertical scale of 1' = 4', showing grades of all proposed streets, ways, roads, sewer and drains. Profiles and contours shall be developed on City of Newton base.

A contour plan, showing existing and proposed contours at sufficient intervals to define the extent of the work embracing at least the area included in the petition shall be submitted. Intervals of one (1) foot are required for flat areas. The contour plan shall show the topography of adjacent areas if required for the Definitive Plan in Section IV. B. 2.a. (18).

Should the plan be submitted on more than one sheet, all sheets shall be of the same size.

Each plan and profile submitted shall have a Title Block in the lower right-hand corner. (See Appendix at page A-4).

The contents of the preliminary plan shall be so prepared as to form a clear basis for discussion of the plan's problems and merits, and for preparation of the Definitive Plan. During discussion of the Preliminary Plan the complete information required for the Definitive Plan (Section IV. B. 2. Contents) and the financial arrangements (Section IV. B. 5. Performance Guarantee) will be developed.

3. Approval

The Planning Board may give such Preliminary Plan its approval, with or without modification. Such approval does not constitute approval of a subdivision. Except as is otherwise expressly provided, the provisions of the subdivision control law relating to a plan shall not be applicable to a Preliminary Plan, and the applicant shall not record a Preliminary Plan in the Middlesex Registry of Deeds, South District, or attempt to enter any notation of approval of the Preliminary Plan in the Land Court.

The Preliminary Plan is valid for one year from the date of approval, during which year the applicant must file a Definitive Plan under Section IV.B.

IV.B. DEFINITIVE PLAN

1. Submission

Any person who submits to the Planning Board for approval a Definitive Plan of a proposed subdivision shall file with the Planning Board together with a properly executed application form, originals, drawn with waterproof ink on tracing cloth, and thirteen (13) prints of each plan and profile. Two (2) additional prints are also required for the Health Commissioner under IV. B. 3. a. The thirteen (13) prints shall be distributed by the Planning Board as follows: one (1) to each of the five (5) members, one (1) to the Clerk of the Planning Board, one (1) to the Planning Board permanent file, one (1) to the Director of Planning and Community Development, one (1) to the Conservation Commission, one (1) to the Fire Department, and one (1) to each of the four (4) alternate members.

The applicant, in accordance with Mass. Gen. Laws ch. 41, sec. 81T, shall give written notice to the City Clerk, on a form approved by the Planning Board, by delivery or registered mail, postage prepaid, stating the date of submission of the plan to the Planning Board.

For purpose of clarity, it is recommended that the Definitive Plan be drawn on at least three separate sheets as follows:

a. Layout of lots including grading contours, which shall be prepared by a Registered Land Surveyor or a Registered Professional Civil Engineer.

b. Design of roadway including water, sewer and storm drain, which shall be prepared by a Registered Professional Civil Engineer.

c. Design of proposed underground gas distribution, electrical distribution and telephone distribution systems, as prepared by a Registered Professional Engineer and suitable for approval by Boston Gas Company engineers, Boston Edison Company engineers, and Bell Atlantic engineers. (Revised and adopted 2/27/83.)

The Clerk of the Planning Board may require the use of additional separate sheets for the different types of plans.

Final plans and profiles shall be drawn on sheets of sizes 22" x 30", 22" x 60", 25" x 40", 25" x 80", except that in special cases, upon approval of the Clerk of the Board, larger sizes may be used. if multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. A margin for binding of 1-1/2" clear shall be allowed on the left-hand edge. All sheets shall be of the same size. The plan to be recorded shall conform to the Rules and Regulations of the Middlesex Registry, South District, or of the Land Court. Each plan and profile submitted shall have in the lower right-hand corner a title block identical to that required on a Preliminary Plan, but shall bear the designation "Definitive Plan."

Prior to submission of an application for approval of a subdivision plan, the applicant shall have arranged with all appropriate private utility companies, public utilities, and City of Newton departments or agencies to supply each lot, or each building within a single lot, with all necessary utilities. The application shall state that the applicant has made such arrangements supported by documentary proof, and that the applicant agrees to bear any charges that may be made for providing such services to every lot.

Failure to comply with the requirements set forth for submission and for contents in subsection IV.B.1. and IV.B.2. shall constitute an incomplete or incorrect application governed by subsection II.F.

2. Contents

The Definitive Plan shall contain four (4) types of plans: a locus plan; a horizontal utilities, construction details and vertical profile plan; a plan of the subdivision of lots and the location of ways and easements for the purpose of recording at the Registry of Deeds or Land Court; and a site grading plan. The Clerk of the Board may require additional types of plans if he deems necessary.

a. Information Required:

1) Except as noted, plans shall be drawn to a scale of 1" = 40'.

2) Title and north point.

3) Name of owner of record.

4) Names of all abutters as they appear on the most recent tax list. (See form in Appendix as page A-7.)

5) The location of all permanent monuments, natural objects such s waterways, large trees, drainage courses, large boulders or ledge outcroppings, stone walls, and the like.

6) Subdivision name, if any.

7) Names of proposed streets, which names shall not duplicate any street name now existing in the City, and shall be in pencil on the plans until such time as they have been approved by the Clerk of the Board.

8) Boundaries.

9) Date, scale, legend and zoning classification.

10) Name and address of Registered Land Surveyor or Registered Professional Civil Engineer with seal.

11) Location, name(s) and present width of any adjacent street(s).

12) Boundary lines, dimensions and areas of all proposed lots including all bearings on the property lines, with all lots designated numerically in sequence, the total area encompassed by the plan. (A traverse and closure of the perimeter of the subdivision shall be provided. The traverse shall be tied in to public and private monuments.

13) Setback lines, designated by a dotted line, on each of the proposed lots.

14) Sufficient information to accurately locate existing and proposed streets, ways and easements (including purpose) as well as their connections to existing streets in the vicinity.

15) The limit of previous approval by the Planning Board and the date of such approval. All adjoining accepted Public Ways or Private Ways shall be so designated. (If Public Way, date of acceptance must be shown.)

16) Length and direction of street boundary lines; length, radii, tangents and intersection angles of all curves; together with the widths of streets and/or ways.

17) A locus plan shall be drawn to a scale of 1" = 400' showing the relation of the proposed subdivision to adjoining properties with a radius of 1/4 mile and to the nearest existing streets on all sides, and the relation of the proposed water, electrical, telephone, sewer and drainage systems and easements to properties and ways within the 1/4 mile radius, and to the nearest existing streets on all sides.

18) A contour plan shall show existing and proposed contours at intervals of 1' and shall embrace at least the area included in the petition. For reasons of clarity, less frequent intervals may be employed on steep slopes.

    The contour plan shall show the topography of adjacent areas which are (a) natural, undeveloped land or wetland, which drains into the proposed subdivision, or into which the proposed subdivision would drain as built or into which the land of the subdivision presently drains; (b) presently experiencing flooding or other problems due to storm water runoff and drainage or which might suffer such problems due to storm water runoff and drainage from the proposed subdivision; (c) located within Flood Plain/Watershed areas designated by the Newton Zoning Ordinance, or within wetland areas governed by M.G.L. ch. 131, sec. 40; or (d) required by the Clerk of the Planning Board.

19) A horizontal utilities plan shall show the proposed layout of all systems for storm drainage, sanitary sewer disposal, water supply, and underground electric and telephone, and all easement.

20) Typical cross section for proposed streets.

21) Cross sections of catchbasins, manholes, and other utilities installations.

22) A profile plan shall be drawn to a horizontal scale of 1" = 40' and a vertical scale of 1" - 4' showing grades of all proposed streets, ways, roads, sewer and drains, and underground electrical and telephone systems. Profiles and contours shall be developed on City of Newton base.

The Profile Plan shall contain the following:

a) Existing center line as a fine black solid line.

b) Existing right side line as a fine black long dash line.

c) Existing left side line as a fine black short dash line.

d) A proposed center line grade must be shown by a pencil line and pencil figures must show proposed grade elevations at every 25 foot station, except in vertical curves where they shall be shown at smaller stations as necessary. After approval by the Board, the proposed center line grade must be shown by a full black line and the proposed grade elevation in black enclosed by parentheses.

3. Procedure

a. Review by Health Commissioner.

At the time of filing of the Definitive Plan, the applicant shall also file with the Health Commissioner two (2) prints of the subdivision plan and profile, and a copy of the application to determine whether lots shown on the plan can be used for building sites without injury to the public health.

The Health Commissioner shall, in accordance with M.G.L. Chapter 41, Section 81U, report to the Planning Board in writing his approval or disapproval of said plans. Where a proposed subdivision is to be serviced by the City of Newton sewage system, failure to make such a report within 45 days from the date of submission to the Health Commissioner constitutes approval of the plan. Where not so serviced, the Health Commissioner is not limited to 45 days in which to review the proposal.

In approving or disapproving a subdivision plan, the Health Commissioner shall make specific findings and reasons, and where possible, make recommendations as to remedies. The Planning Board shall require implementation of such remedies, and where no recommendations are made by the Health Commissioner, or the recommendations are of a very general nature, or the recommendations are inadequate to meet the health problem cited by the Health Commissioner, then the Planning Board shall fashion appropriate remedies and require their imposition on the plan.

b. Public Hearing

Upon receipt of a properly executed application form approved by the Planning Board together with the originals and copies of Definitive Plan, the Planning Board will set a date for the required public hearing. Notice of the public hearing shall be given in accordance with the requirements of Chapter 41, Section 81T, of the General Laws.

Notice shall be sent by registered or certified mail, return receipt requested, at least ten (10) days prior to the public hearing to owners of land abutting upon the land included in the subdivision plan and documentary proof of such mailing shall be submitted to the Board.

All expense incurred for plans, surveys, advertisements of hearings, mailing, etc., shall be the responsibility of the developer or owner submitting said plans for approval. This includes any costs incurred by reason of incorrect or incomplete application, as set forth in subsection II.F.

The requirements for a public hearing and notice may be waived by majority vote of the Planning Board for matters which are ministerial, and which do not change valid rights already vested in those who would be entitled to receive notice.

4. Certificate of Approval

The action of the Planning Board with respect to such plan shall be by vote, copies of which shall be certified and filed with the City Clerk and sent by delivery or registered mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for its action.

Final approval, if granted, shall be endorsed on original drawing of the Definitive Plan by the signatures of a majority of the Planning Board (or by the signature of the Clerk of the Planning Board, but not until the statutory twenty (20) days appeal period has elapsed following the filing of the certificate of the action of the Planning Board that no appeal has been filed. After the Definitive Plan has been approved and endorsed, the Planning Board will retain the original for official record.

5. Performance Guarantee

Before endorsement of its approval of a plan, the Planning Board will require that the construction of ways and installations of municipal services and other utilities be secured by one, or in part by one, and in part by the other, of the following methods which the Planning Board shall determine and endorse on said plan:

a. Bond or Securities

By a proper bond or a deposit of money or negotiable securities, sufficient in the opinion of the City Engineer to secure performance of the construction of ways, and installations of municipal services and utilities required for lots in the subdivision shown on the plan.

Such a bond or security, if filed or deposited, shall be approved as to form and manner of execution by the City Solicitor and as to sureties by the Mayor and shall be contingent on the completion of such improvements within two (2) years of the date of the bond.

The status of such security will be reviewed bi-annually by the Planning Board and may be increased to reflect increases in estimated costs for completion of construction.

b. Covenant

By a covenant, executed and duly recorded by the owner of record, running with the land, whereby the ways and services as specified in Sections V and VI, not covered by bond or deposit under "a" hereof shall be provided to serve any lot before said lot may be built upon or conveyed, other than by Mortgage deed. (Form D, see Appendix at page A-8.)

c. Reduction of Bond or Surety

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

d. Nonstatutory Performance Guarantees

Except where Board of Aldermen approval for a Special Permit is required, the Planning Board may impose additional bonds, deposits of money, or covenants upon the applicant to insure the completion of any and all additional facilities, utilities, and grading deemed by the Planning Board or Health Commissioner to be required by the public health, safety and welfare, and to be consistent with Subdivision Control Law and these Rules and Regulations, or to insure the preservation of designated portions of the proposed

subdivision in accordance with Section V, Paragraph D, "Open Spaces", of these Rules and Regulations.

6. Release of Performance Guarantee

A. Prerequisite of Conveyance of Utilities and Easements to the City

Before the Board will release a covenant, surety bond or deposit, or, in the case of conditional approval, issue a Certificate of Performance, the applicant shall execute an instrument, on a form approved by the Planning Board. (See sample - Page A-10.)

1. Transferring to the City, without cost, valid unencumbered title to all common sewers, storm drains and water mains, and appurtenances thereto, constructed and installed in the subdivision or portion thereof to be approved, and

2. conveying to the City without cost and free of all liens and encumbrances, perpetual rights and easements to construct, inspect, repair, renew, replace, operate and forever maintain the aforesaid underground utilities with any manholes, pipes, conduits and other appurtenances, and to do all acts incidental thereto, in, through and under the whole or all streets in the subdivision or portion thereof to be approved, and if any such utilities have been constructed and installed in land not within such street, then, in, through and under a strip of land extending ten (10) feet in width on each side of the center line of all such sewers and water mains.

B. Procedures for Obtaining Release

(i) Subdivider's Notice of Completion of Construction and Request of Release

Upon the completion of improvements or other duties required by the Planning Board, security for the performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect to any lot, the subdivider shall send by registered mail to the City Clerk a written statement in duplicate that the said construction or installation for which such bond, deposit or covenant has been given, has been completed in accordance with the requirements of the Planning Board and request the release of the performance guarantee. The statement shall contain the address of the applicant, and the City Clerk shall forthwith furnish a copy of said statement to the Planning Board.

(ii) Planning Board's Notice of Incomplete Construction

If the Planning Board determines that said construction or installation has not been completed or that other duties have been breached, it shall specify in a notice sent by registered mail to the City Clerk the details by which said construction and installation fails to comply with the requirements contained in these Rules and Regulations and the approved plan.

(iii) Effect of Failure of Planning Board to Act on an Application for Release

Failure of the Planning Board to act on such application within forty-five (45) days after the receipt of the application by the City Clerk shall terminate all obligations under the bond by operation of law, any deposit shall be returned and any such covenant shall become void. In

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

7. As-Built Plans

The following as-built plans and profiles, prepared by a Registered Professional Engineer or Registered Land Surveyor, shall be submitted to the Planning Board following the completion of construction:

a. A plan and profile, suitable for submission to the Board of Aldermen, for street acceptance purposes.

b. A plan and profile, detailing the location and elevation of all underground utilities and appurtenances, including rim grades, percent of slope for sewer and drain lines and contours "as-built".

SECTION V. DESIGN STANDARDS

A. Lots

1. General Configuration

All lots shown on subdivision plans submitted to the Board for approval shall be of regular shape, with minimal changes from continuous straight lot lines, and shall contain at least the minimum area requirement for the area regulation district in which the land is located.

2. One Building For Dwelling Purposes Per Lot

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere on a lot governed by M.G.L. ch. 41, 81P in the City without the consent of the Board, and such consent may be conditional upon the providing of adequate ways furnishing access to each site for such building, upon the providing of adequate underground utilities, and upon complying with any and all other provisions of these Rules and Regulations in the same manner as otherwise required for lots within a subdivision.

Where more than one building for dwelling purposes is to be erected, or placed or converted to use on a lot, the Board shall determine whether variations under Sections V and VI of the Rules and Regulations are in the public interest and consistent with the Subdivision Control Law. The Board recognizes that strict adherence to the design standards and specifications for subdivisions may be inappropriate or unnecessary to the public interest and the intent of the Subdivision Control Law in applications dealing with more than one building for dwelling purposes on a single lot.

B. Streets

1. Location and Alignment

a. All streets in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.

b. Provision satisfactory to the Planning Board shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided.

c. Street jogs with centerline offsets of less than one hundred and twenty-five (125) feet should be avoided.

d. The minimum centerline radii of curved streets shall be one hundred (100) feet. Greater radii may be required for principal streets.

e. Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.

f. Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than thirty-three (33) feet.

2. Access From and to Adjacent Ways and Land

a. No subdivision shall be allowed which does not have access to existing public ways of the City of Newton or of an adjoining municipality. Said access shall be by (1) existing public ways, or (2) existing Private Ways which Private Ways meet the standards of these Rules and Regulations and the standards of construction established by the City Engineer, and over which the residents of the proposed subdivision and the public have a legal right to travel.

b. No proposed subdivision will be approved unless, as submitted or as modified, the proposed subdivision will not (1) create dangerous traffic conditions in the public and private ways adjacent to the proposed subdivision, (2) create inadequate and dangerous access to the subdivision through such adjacent public and private ways, and (3) utilize public and private ways adjacent to the proposed subdivision which already contain dangerous traffic conditions, and which would be further aggravated by the proposed subdivision and thereby pose hazards to either the residents of the proposed subdivision, or those using or residing next to those existing public ways. The Planning Board will determine whether the aforementioned dangerous traffic conditions or inadequate access are applicable by utilizing recent traffic data and current traffic control and planning standards.

c. In appropriate cases, the Planning Board may require the applicant to improve existing access roads,instead of denying the proposed subdivision, when such improvements would eliminate any traffic safety hazards which the subdivision would otherwise cause.

3. Width

a. The minimum width of street rights-of-way shall be forty-five (45) feet. Greater width shall be required by the Planning Board when deemed necessary for present and future vehicular traffic.

b. All existing streets, if extended, shall be extended at the same width, or at a greater width if it be deemed advisable by the Planning Board.

4. Grade

a. Grades of streets shall be not less than 0.6 per cent, nor more than 12 per cent unless otherwise permitted by the Board.

5. Dead End and Cross Streets

a. Streets shall be continuous with existing streets as far as practicable, and shall comprise a convenient system with connections adequate to insure free and safe circulation of vehicular traffic.

Reserve strips prohibiting adjacent land owners from obtaining access to streets or adjoining property shall not be permitted.

b. If the Planning Board allows a dead end street, the dead end street shall not be longer than five-hundred (500) feet, unless the Planning Board determines that a greater length is necessitated by topography or other local conditions, and by the public interest.

c. If the Planning Board allows a dead end street, the dead end street shall not be a "keyhole" street; i.e., the street shall not be shorter than (1) a distance of ninety (90) feet to the beginning of the turnaround, plus (2) the distance equal to the diameter of the

turnaround, unless the Planning Board determines that a shorter length is necessitated by topography or other local conditions, and by the public interest.

d. If the Planning Board allows a dead end street, the dead end street shall be provided at the closed end with a turnaround (cul-de-sac) having a minimum property line diameter of ninety-five (95) feet. The Planning Board may increase the diameter of said turnaround in specific cases if the public interest so requires.

e. Cross streets shall be located at intervals of not more than eight hundred (800) feet nor less than four hundred (400) feet unless existing conditions justify a departure from this principle.

f. Termination of turnaround easements. If a dead end street is subsequently extended beyond the required turnaround, except for that portion of the turnaround included within the boundaries of said extension, the turnaround shall terminate upon the approval and recording of a certificate by the Planning Board of the construction of said extension.

C. Easements

1. Easements for utilities which are located across lots or are centered on rear or side lot lines or are located on private ways shall be provided where necessary and shall be at least twenty (20) feet wide for municipal serviced facilities and fifteen (15) feet wide for utilities serviced by private companies.

2. Where a subdivision is traversed by a watercourse, drainage way, channel or stream, the Planning Board may require that there be provided a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourse, drainage way, channel or stream, and to provide for construction or other necessary purposes. In general, such easements or rights-of-way shall extend ten (10) feet from the side lines of the watercourse, drainage way, channel or stream.

D. Open Spaces

In proposed development for which open space preservation is not otherwise provided in applicable zoning ordinances, the Zoning Act, or other laws, the Planning Board may also, in appropriate cases, require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. The Planning Board shall by appropriate endorsement on the plan require that no building be erected upon such park or parks without its approval for a period of three (3) years. (See M.G.L. Chapter 41, Section 81U.)

The Planning Board may consult with agencies of the City of Newton such as the Planning Department, Recreation Commission, and Conservation Commission to determine the appropriateness of such endorsement for a park or parks. In addition, the Planning Board may require the applicant to submit his plan to these or other agencies during the pendency of his application, in order to more fully enable the Planning Board to determine whether an endorsement for a park or parks is to be made.

E. Protection of Natural Features

Due regard shall be shown for all natural features, such as large trees, water course, scenic points, historic spots, and similar undeveloped land, which, if preserved, will add attractiveness and value to the subdivision, will service as a buffer to lessen the impact of the subdivision on adjacent areas, will lessen the danger of flooding, will reduce or prevent pollution of wetlands or waterbodies, and will generally foster the purposes of the Subdivision Control Law in M.G.L. Chapter 41, Section 81M of these Rules and Regulations.

Where such natural features are deemed to be community assets; i.e., natural features which, if preserved, would be of more benefit to the community and public than to the subdivider and would provide no amelioration of the harms falling within the Subdivision Control Law, then the Planning Board may endorse the plan by designating the natural features as park or parks under M.G.L. Chapter. 41, Section 81U and Section V.D. of the Rules and Regulations.

F. [Reserved for Environmental Impact Statement]

G. [Reserved for Bicycle Paths and Pedestrian Walkways]

H. Drainage

All surface and subsurface runoff calculations shall conform with the design criteria as published by the City Engineer.

SECTION VI. SPECIFICATIONS AND REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVISION

A. Street and Roadway

1. All construction for new streets shall be in accordance with the following: The Revised Ordinances (1973) of the City of Newton, Section 19-73, Subsection (h); Specifications and General Construction Details established by the City Engineer; and Standard Specifications of the City of Newton --- Special Provisions --- Highway established by the City Engineer. The aforementioned specifications established by the City Engineer shall be those in effect at the time of the approval of the plan by the Planning Board. The specifications of the City Engineer are to be used only with respect to the standards contained therein for construction.

2. In general all roadways will be excavated to the approved depth and width of sub-grade. Where existing soil is soft, spongy, or contains unsuitable sub-base materials such as clay, sand pockets, tree stumps, boulders, etc., additional excavation below the established sub-grade shall be made, and backfilled to sub-grade with well-compacted material rolled to the required cross-section detail.

3. The sequence of construction of the development shall be that immediately following preparation of the roadway sub-grade, all underground utilities (public and private) shall be installed within the limits of the streets; after which pavement shall be placed. Thereafter, building construction can commence.

4. See Resolves of the Board of Aldermen, with respect to acceptance of the ways of a subdivision. (Copy of Resolve in Appendix at A-1.)

B. Utilities

1. General

   a. All systems for water supply, storm drainage, and sewage shall be designed by a Professional Registered Engineer (Civil or Hydraulic), and must be approved as to material, size, location, layout and design by the Planning Board and the City Engineer.

   b. All systems for water supply, storm drainage, and sewage shall conform to the applicable provisions of the Standard Specifications of the City of Newton --- Special Provisions --- Highway and Sewer, and General Construction Details Specifications available in the office of the City Engineer.

   c. The stability of the soil for utility piping shall be to the satisfaction of the Planning Board and the City Engineer.

   d. No proposed subdivision shall be allowed which would be unable to connect to all utilities.

   e. When property adjacent to the subdivision is not yet subdivided, provision shall be made for proper extension of the systems for water supply, storm drainage, and sewage by continuing the systems to the exterior of the subdivision in the manner, size and at such grade as will allow for the subsequent extensions.

   f. When the existing water supply system or utilities, or storm drainage system, or sewage system to which the proposed subdivision would connect, would be inadequate such that the safety and welfare of the inhabitants and their property within or outside the

subdivision would be threatened, then the Planning Board may either disapprove of the plan or require that as a condition of approval the applicant correct said inadequacies or reimburse the City for the costs of correcting such inadequacies.

2. Water Supply System

a. Water mains, water service connections, and all other appurtenances shall be installed as provided in Sections 23-8 through 23-10 of the Revised Newton Ordinances of 1973.

b. Water mains including all appurtenances, such as hydrants, gate valves, and other fittings, shall be so constructed and installed within the subdivision to provide to all lots therein adequate water supply for domestic and fire protection use.

3. Storm Drainage System

a. Storm drains and appurtenances shall be installed as provided in Chapter 18 of the Revised Newton Ordinances of 1973.

b. The storm drainage system shall be designed in accordance with the City of Newton Drainage Design Criteria established by the City Engineer.

c. The storm drainage system shall be designed, together with grading and filling, with devices such as retaining walls and bleeder drains, or other devices when, in the opinion of the City Engineer and the Planning Board, or the Health Commissioner, such devices and designs are necessitated by the public health, safety and welfare due to conditions such as topography or soil contents.

d. The storm drainage system and grading for storm water shall be designed so as to have no adverse impact by flooding, erosion, or pollution upon wetlands and undeveloped land which may be adjacent to, or within the subdivision. When wetlands or undeveloped land is adjacent to or within the proposed subdivision, or in other appropriate circumstances, the Planning Board shall consult with the Conservation Commission.

4. Sanitary Sewage System

a. Sanitary sewers together with all appurtenances shall be installed as provided in Chapter 18 of the Revised Ordinances of Newton of 1973.

b. Sanitary sewers shall be designed in accordance with the standards set forth in Standard Specifications of the City of Newton --- Special Provisions --- Highway and Sewer, and General Construction Details Specifications

c. No sewage facilities shall be designed other than to connect into the municipal sewage system by gravity flow of Newton or of an adjacent city or town. If the Planning Board determines that this prohibition is to be waived, waiver must be (1) in the public interest, and (2) not contrary to the spirit and intent of the Subdivision Control Law, and (3) due to compelling circumstances. The public interest shall include, but not be limited to, a determination by the Health Commissioner that the lack of connection to a municipal sewage system would not pose any harm to adjacent wetlands or to other lots in the subdivision or land outside the subdivision.

No waiver may be granted until after the applicant has filed an Environmental Impact Statement

5. Underground Electric Power Distribution and Service Systems; Underground Telephone System

   a. All electric power distribution (high voltage) and service (low voltage), and all telephone lines and appurtenances shall be installed underground in accordance with design standards of the Boston Edison Company and Bell Atlantic. The Planning Board may grant permission for the mounting on pads of transformers and other like equipment, if such permission is in the public interest and required by particular circumstances.

      Poles of a design approved by the Commissioner of Public Works shall be provided for street lighting and for the mounting of police call, fire alarm and emergency boxes. Street lights and appurtenances shall be approved by the Commissioner of Public Works.

      The underground electrical power and service system shall incorporate provision for service to street lighting and to alarm, emergency, and police call boxes.

   b. In an existing overhead electrical power distribution or overhead telephone line area, all wires for electrical and telephone systems shall be standpiped on the existing pole which is closest to the proposed subdivision. Electrical and telephone systems shall then be provided underground to the subdivision.

      If one or more poles with wires and appurtenances already exists on land within the proposed subdivision, said pole or poles with wires and appurtenances shall be removed. The Planning Board may allow a single pole with appropriate standpiping to be placed on one or more of the extremities of the subdivision as a link to lots outside the subdivision which are already developed and are already receiving electrical and telephone power and service from overhead wires; provided, however, that the circumstances must require said pole or poles and such a waiver shall not be contrary to the public interest.

   c. The developer shall furnish to the City Engineer copies of all plans approved by private utilities showing the proposed construction of the appropriate underground utilities and their connections to the individual lots.

6. Natural Gas Distribution

   Gas supply lines shall be installed underground in accordance with the requirements of the Boston Gas Company. The applicant shall obtain at least one (1) plan of the proposed underground installation of gas supply lines and submit the plan to the City Engineer for his review and approval.

C. <u>Sidewalks</u>

1. Sidewalks as shown in <u>Specifications and General Construction Details, Typical Cross-Sections of Streets</u> shall be constructed on both sides of each roadway on all streets shown on the Definitive Plan.

2. In the constructing of all sidewalks, the method of construction shall be in accordance with Specifications of the City of Newton --- Special Provisions --- Highway (Cement concrete walks).

3. Ramps, grades and slopes for handicapped persons shall be constructed in accordance with the requirements established by the Architectural Barriers Board for accessibility by handicapped persons.

D. Monuments or Bounds

1. Monuments shall be installed at all street intersections, at all points of change in direction or curvature of streets, and at such other points required to define public property.

2. Granite monuments or bounds as shown and detailed in City of Newton General Construction Details shall be installed as outlined in City of Newton Specifications --- Special Provisions --- Highway (Stone Bounds).

   A certification shall be made to the Planning Board by a Registered Engineer (Civil) or Registered Land Surveyor that the bounds set are as shown on the Definitive Plan. (See Appendix at A-11.)

E. Street Signs

1. Street signs shall be City of Newton Standard as approved by the Commissioner of Public Works. They shall bear the names of the streets as indicated on the Definitive Plan and shall be erected by the subdivider at all intersections of streets within the subdivision, and at the intersection of any street of the subdivision with a public way. The name of both streets shall appear on a sign post at street intersections.

2. Street signs containing the international wheel chair symbol shall be erected when required by the standards established by the Architectural Barriers Board.

3. The signs will be placed as directed by the Traffic Division of the Department of Public Works.

F. Planting Strips or Loam Borders

1. Grass strips or loam borders of a width required by City of Newton General Construction Details and method of construction as specified by City of Newton Specifications --- General Provision --- Highway (Loam Borders) shall be provided on each side of the roadway and shall be shown on the Definitive Plan.

2. All hydrants shall be installed so the center line of hydrant is at the center of the grass strip.

G. Side Slopes

1. The grade, extending from the back of the sidewalk to match existing ground, shall not exceed a slope of three (3) horizontal to one (1) vertical, all as shown on City of Newton General Construction Details. In areas where differential is more than three (3) feet or the character of the material warrants, the Planning Board may grant a revision of slope requirement.

2. Fieldstone or concrete retaining walls may be used to reduce the sloping limits, or to maintain lateral support to butting properties.

3. All retaining walls in general shall conform to those shown on City of Newton General Construction Details and method of construction shall be in conformance with City of Newton Specifications --- General Provisions --- Highway (Cement Concrete Wall and Stone Masonry Wall).

4. Design and calculations for other walls by a Registered Professional Engineer (Civil or Structural) shall be furnished to the City Engineer for approval.

H. Loaming

1. The top four (4) inches of grass strips and side slopes shall be built with City of Newton Specifications --- Special Provisions --- Highway (Loam Borders and Loaming and Seeding).

SECTION VII. PROCEDURE FOR SUBMISSION AND APPROVAL OF CERTAIN TWO-LOT SUBDIVISIONS (Adopted 7/7/97)

A. A special subdivision submission and approval process shall apply in cases where the plan to be approved shows a subdivision resulting in two (2) lots where: 1) the lots have frontage on an existing street, 2) the lots are to be fully serviced by utilities and municipal services already existing in the street, or to be installed in the street based upon approved extensions of municipal services and/or utility easements, or by easement in abutting properties, 3) the division of the parcel would qualify for treatment as a plan not required to be approved as a subdivision except for the fact that one or both of the lots shown does not have the amount of frontage on a way and/or does not have the lot area required under the zoning ordinance, and 4) one or more variances have been obtained to address such deficiencies. All expenses incurred for advertising and postage for mailing notices shall be the responsibility of the developer or owner submitting said plans for approval. This includes any costs incurred by reason of incorrect or incomplete application, as set forth in Subsection II.F. (Adopted 7/7/97.)

B. The applicant for a subdivision meeting the requirements of Section VII.A. shall submit, along with a properly executed application form, an original plan, in duplicate, drawn with waterproof ink on material conforming to recording requirements of the Registry of Deeds and containing all the requirements set forth in Section III.B. for a plan believed not to require approval as a subdivision, except that the endorsement caption shall reflect the necessity of approval as a subdivision. The applicant shall submit six (6) prints of such plan. The applicant shall also supply an attested copy of the variance or variances described in A. above, the locus plan described in Section IV.B.2.a. (17) and a plan showing the location and nature of existing utilities and municipal services and how such utilities and municipal services are or are to be provided to the subdivision. Except for the limited nature of the plans to be provided, the applicant shall meet all other procedural requirements set forth in Section IV.B., including but not limited to the required notice to the City Clerk and payment of all expenses. The Clerk of the Board may require such additional plans or information as the Clerk deems necessary.

C. The procedure set forth in Section IV.B.3. shall apply to subdivision plans submitted pursuant to this Section. The Planning Board shall evaluate the proposed subdivision to determine whether vital access is provided and to determine if utilities and municipal services will be effectively provided to the subdivision. Approval of a subdivision plan under this Section may be conditioned in the same manner as those submitted under Section IV.B. Performance Guarantees may be required as described in Section IV.B.5. No as-built plans as described in Section IV.B.7. shall be required.

FORM A

APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL

_____ 19____

To the Planning Board of the City of Newton, Massachusetts

The undersigned wished to record the accompanying plan and requests a determination by said Board that approval by it under the Subdivision Control Law is not required. The undersigned believes that such approval is not required for the following reasons:

1. The division of land shown on the accompanying plan is not a subdivision because every lot shown thereon has the amount of frontage, area and depth required by the City of Newton Zoning Ordinance and is on a public way, namely, _____ _____ or a private way, namely, _____.

2. The division of land shown on the accompanying plan is not a subdivision for the following reason(s):

_____

_____

_____

_____

3. The owner's title to the land is derived under deed from _____ _____ dated _____, 19__, and recorded in _____, _____, Registry of Deeds, Book _____, Page _____ or Land Court Certificate of Title No. _____, registered in _____ District Book _____, Page _____ and _____ Assessors' Book _____.

Received by City Engineer
Clerk of the Board

Date _____

Time _____

Signature _____

Applicant's signature _____

Applicant's address _____

_____

_____

Owner's signature and address if not the applicant _____

_____

_____

Action Taken:

Approval of this plan under the subdivision control law is not required.	Approval of this plan under the subdivision control law is required.	Application/Plan submitted is deficient.
Date _____	Date _____	Date _____
Clerk-Newton Planning Board	Clerk-Newton Planning Board	Clerk-Newton Planning Board

ATTACHMENT TO FORM A

APPLICATION FOR ENDORSEMENT OF PLAN
BELIEVED NOT TO REQUIRE APPROVAL

City Clerk
Newton City Hall
Newton Centre, MA 02159

Dear Sir:

Pursuant to General Laws, Chapter 41, Section 81T, notice is hereby given that the undersigned has this date submitted to the Newton Planning Board Acting as a Board of Survey for endorsement that approval under the subdivision control law is not required, a plan entitled and described below:

We also enclose a copy of Form A.

Date:_____

Applicant's signature:_____

Applicant's address:_____

_____

PWG/jf

FORM B

APPLICATION FOR APPROVAL OF A PRELIMINARY PLAN

_____, 19_____

To the Planning Board of the City of Newton, Massachusetts

The undersigned, being the applicant as defined under Chapter 41, Section 81-L, for approval of a proposed subdivision shown on a plan entitled_____

_____

_____

By_____dated_____, _____

(being land bounded as follows:

_____

_____

_____)

hereby submits said plan as a Preliminary subdivision plan in accordance with the Rules and Regulations of the Newton Planning Board and makes application to the Board for approval of said plan.

The undersigned's title to said land is derived from_____

_____

by deed dated_____and recorded in the_____

District Registry of Deeds Book_____,Page_____, registered in the_____

_____Registry District of the Land Court,

Certificate of Title No._____.

Received by_____

Date_____

Time_____

Signature_____

Applicant's signature_____

Applicant's address_____

_____

_____

Owner's signature and address if not the applicant_____

_____

_____

TYPICAL TITLE BLOCK
for
SUBDIVISION PLANS

PLAN AND PROFILE
OF

"_____"

(STREET NAME)

NEWTON, MASS.

SCALE: VER.-1" = 4'
HOR.-1" = 40'

DATE: _____

(FIRM/COMPANY NAME) (TYPE OF FIRM)

(FIRM ADDRESS)

2. to complete and construct the streets or ways shown thereon in accordance with Section VI of the Rules and Regulations of the Planning Board and the approved DEFINITIVE plan, profiles and cross sections of the same. Said plan, profiles, cross sections and construction specifications are specifically, by reference, incorporated herein and made a part of this application. This application and the covenants and agreements herein shall be binding upon all heirs, executors, administrators, successors, grantees of the whole or part of said land, and assigns of the undersigned; and

3. to complete the aforesaid installations and construction within two (2) years from the date hereof.

The holders of all mortgages upon the land included in said plat have assented hereto:

Assented to:

_____)
_____)Mortgagees
_____)

_____
Signature of Applicant

_____
Address

_____

Received by _____

Date: _____

Time: _____

Signature: _____

To be filed with Board of Survey Petition.

List of Abutters

Name & Address of Petitioner _____

_____

Location covered by petition: _____

Date of Hearing _____ 19____

==========

LIST OF PROPERTY OWNERS TO WHOM NOTICES OF HEARING ARE TO BE SENT

	Section Block Lot	Name of Property Owner	Street & #, City & State
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			

(Actual form to be submitted and approved by the City Solicitor prior to execution.)

SAMPLE FORM D

COVENANT

Know all men by these presents that whereas the undersigned has submitted an application dated_____, 19___, to the_____ Planning Board for approval of a definitive plan of a certain subdivision entitled _____ and dated_____, 19___, and has requested the Board to approve such plan without requiring a performance bond.

NOW THEREFORE, THIS AGREEMENT WITNESSETH that in consideration of the _____ Planning Board approving said plan without requiring a performance bond, and in consideration of one dollar in hand paid, receipt whereof is hereby acknowledged, the undersigned covenants and agrees with the (City/Town) of _____ as follows:

1. The undersigned will not sell any lot in the subdivision or erect or place any permanent building on any such lot until the construction of ways and municipal services necessary to serve adequately such lot has been completed in the manner specified in the aforesaid application, and in accordance with the covenants, conditions, agreements, terms and provisions thereof.

2. This agreement shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned.

   It is the intention of the undersigned and it is hereby understood and agreed that this contract shall constitute a covenant running with the land included in the aforesaid subdivision and shall operate as restrictions upon said land.

   It is understood and agreed that lots within the subdivision shall, respectively, be released from the foregoing conditions upon the recording of a certificate of performance executed by a majority of said Planning Board and enumerating the specific lots to be so released.

3. The undersigned represents and covenants that undersigned is the owner* in fee simple of all the land included in the aforesaid subdivision and that there are no mortgages of record or otherwise on any of said land, except such as are described below and subordinated to this contract, and the present holders of said mortgages have assented to this contract prior to its execution by the undersigned.

   *If there is more than one owner, all must sign.

COVENANT

IN WITNESS WHEREOF the undersigned, applicant as aforesaid, does hereunto set his hand and seal this_____ day of _____, 19___.

Received by Town Clerk:

Date_____

Time_____

Signature_____

Applicant's signature_____
Applicant's address_____
_____
_____

Owner's signature and address if not the applicant _____
_____
_____

Description of Mortgages:_____
_____
_____
_____
_____
_____
(Give complete names and Registry of Deeds reference.)

Assents of Mortgagees:

_____
_____
_____

COMMONWEALTH OF MASSACHUSETTS

_____ss _____, 19___

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

_____
Notary Public

My commission expires:_____

SAMPLE

CONVEYANCE OF EASEMENTS AND UTILITIES

_____, of _____ _____County, Massachusetts, for good and adequate consideration, grant to the City of Newton, a municipal corporation in Middlesex County, Massachusetts, the perpetual rights and easements to construct, inspect, repair, renew, replace, operate and forever maintain, water mains, storm drains, sanitary sewer mains, with any manholes, pipes, conduits, drainage easements and other appurtenances thereto, and to do all acts incidental thereto, in, through and under the following described land:

_____

_____

_____

appearing on a plan entitled _____

And, for the consideration aforesaid, the said grantor does hereby give, grant, transfer and deliver unto the City of Newton all water mains, storm drains, sanitary sewer mains, manholes, pipes conduits, drainage easements and all appurtenances thereto that are now or hereafter constructed or installed in, through, or under the above described land by the grantor and the grantor's successors and assigns.

The grantor warrants that the aforesaid easements are free and clear of all liens or encumbrances, that he (it) has good title to transfer the same, and that he will defend the same against claims of all persons.

For grantor's title see deed from_____dated_____ 19___, and recorded in _____District Registry of Deeds, Book _____, Page_____, or under Certificate of Title No._____, registered in_____District of Land Court, Book_____, Page_____.

And (to be completed if a mortgage exists)_____ (name and address)_____

_____

the present holder of a mortgage on the above described land, which mortgage is dated_____, 19___, and recorded in said Deeds, Book _____, Page_____, for consideration paid, hereby releases unto the (City/Town) forever from the operation of said mortgage, the rights and easements hereinabove granted and assents thereto.

_____ _____

Authorized Signature of Mortgagor Owner

IN WITNESS WHEREOF we have hereunto set our hands and seals the_____ day of _____, 19___.

COMMONWEALTH OF MASSACHUSETTS

_____ss _____, 19____

Then personally appeared the above named_____ and acknowledged the foregoing to be_____ free act and deed, before me.

_____

Notary Public

My Commission expires:_____

I hereby certify that on _____ I checked the stone bounds on the bonded portion of _____ _____ and found them to be set accurately in the proper locations and to the proper grade according to the Board of Survey plan on file.

_____
Land Surveyor or Registered
Professional Engineer