

**RULES AND REGULATIONS
GOVERNING THE SUBDIVISION OF LAND**

WELLFLEET, MASSACHUSETTS



**PREPARED BY THE WELLFLEET PLANNING BOARD
DECEMBER 16, 2009**

Amended March 6, 2013

RULES AND REGULATIONS GOVERNING THE SUBDIVISION OF LAND WELLFLEET, MASSACHUSETTS

SECTION I GENERAL PROVISIONS

1.01 ADOPTION AND EFFECTIVE DATE

The Subdivision Control Law of Massachusetts (Sections 81K through 81GG inclusive, of Chapter 41 of the General Laws of the Commonwealth) is in effect in the Town of Wellfleet, having been adopted on December 16, 2009. Under authority vested in the Wellfleet Planning Board by Section 81Q of Chapter 41, the Board hereby adopts these rules and regulations governing the subdivision of land, which shall be effective on and after the sixteenth day of December, 2009, until modified or amended by the Board.

1.02 APPLICABILITY

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

1.03 PURPOSE

These regulations have been adopted for the purpose of protecting the safety, convenience and welfare of the inhabitants of Wellfleet by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein.

In achieving these purposes, the powers of the Board shall be exercised with due regard for:

1.03.a the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel;

1.03.b lessening congestion in such ways and in the adjacent public ways;

1.03.c reducing danger to life and limb in the operation of motor vehicles;

1.03.d securing safety in the case of fire, flood, panic and other emergency;

1.03.e ensuring compliance with the *Wellfleet Zoning Bylaws*;

1.03.f securing adequate provision of water, sewerage, drainage, underground utility service, fire, police and other municipal equipment, street lighting, and other requirements, where necessary, in a subdivision; and

1.03.g coordinating the ways in a subdivision with each other and with the public ways in the Town and with the ways in neighboring subdivisions.

1.04 DEFINITIONS

As used in this document, words in singular include the plural and those in the plural include the singular. The word "may" is permissive; the words "shall" or "will" are mandatory. For the purpose of these *Rules and Regulations*, the following words used herein are hereby defined as follows:

1.04.a **Abutter:** The owner of the property that is contiguous to the subject property, including those across streets and ways, and shall include abutters to abutters whose property is within 500 feet of the subject property.

1.04.b **Applicant:** The person who applies for the approval of a plan, or for approval not required endorsement, or his administrators, executors, heirs, devisees, successors and assigns.

1.04.c **Board:** The Planning Board of the Town of Wellfleet.

1.04.d **Lot:** An area of land in one ownership, with definite boundaries, used or available for use, as the site of one or more buildings, and intended for transfer of ownership.

1.04.e **Lot Area:** The contiguous horizontal area of a Lot exclusive of any area on a street or way open to public or private use and excluding the land which is swampy, pond, bog, dry bog, marsh, areas of exposed ground water, or which is subject to flooding from storms and mean high tides.

1.04.f **Lot Frontage:** That portion of the Lot fronting on and having access to a street, measured continuously along one street line between Lot lines, or in the case of corner lots, between one side lot line and the mid-point of the corner radius. On curved street, lot frontage may alternatively be measured as the straight –line distance between points on the side lot lines at the required setback line, providing said lines are approximately straight and normal to the street line, and providing that 60% of the requirement can be met at the street line.

1.04.g **Subdivision:** As defined in the Massachusetts General Laws Chapter 41, Section 81-L, as amended.

1.05 WAIVER OF COMPLIANCE

Strict compliance with the requirements of these *Rules and Regulations* may be waived when, in the judgment of the Board, such action is in the public interest, and not

inconsistent with the Subdivision Control Law. The application for approval of a definitive plan must be accompanied by a written request for waiver of strict compliance with these rules, the regulation sought to be waived, the nature and location of the waiver sought, and a statement by the applicant's surveyor or engineer that such waiver is consistent with each of the purposes set forth in Section 1.03 of these *Rules and Regulations*.

1.06 AMENDMENTS

These regulations or any portion thereof may be amended, supplemented or repealed from time to time by the Board after a public hearing.

SECTION II SUBMISSION AND APPROVAL OF PLANS

2.01 GENERAL

Only those plans which constitute Subdivisions, as that term is defined in Section 1.04, require the approval of the Board. However, all plans, whether "subdivisions" within the meaning of the law, or not, must be reviewed by the Board before any approval is given, or before an endorsement is made that the plan does not constitute a subdivision and therefore does not require approval. The Register of Deeds of Barnstable shall not record any plan showing a division of a tract of land into two or more lots, and/or ways, whether existing or proposed, providing access thereto, unless (1) such plan bears an endorsement of the Planning Board that such plan has been approved by the Planning Board, and a certificate by the Town Clerk is endorsed on the plan, or is separately recorded and referred to on said plan, that no notice of appeal was received during the twenty days next after receipt and recording of notice from the Planning Board of the approval of the plan, or, if an appeal was taken, that a final decree has been entered by the court sustaining the approval of the plan, or (2) such plan bears an endorsement of the Planning Board that approval of such plan is not required, or (3) the plan is accompanied by a certificate of the Town Clerk that it is a plan which has been approved by reason of the failure of the Planning Board to act thereon within the time prescribed, or that it is a plan submitted pursuant to Section 81P and that it has been determined by failure of the Planning Board to act thereon within the prescribed time that approval is not required. In order to obtain a permit for the erection of a building on a lot, a way giving access to such lot must appear on a plan recorded at the Barnstable Registry of Deeds or entitled to be recorded under Massachusetts General Laws, Chapter 41, Section 81X.

2.02 SUBMISSION COMPLETENESS

No plan for review, whether for approval or for endorsement of approval not required, shall be accepted as a submittal unless and until all information necessary for such review, as described herein under the applicable provisions of submission requirements, are fully provided, unless waived in writing by the Board. At the time of submission, a determination shall be made by the Planning Board, or its designee, using these regulations, that the submission materials are either complete or incomplete. If the submission has been determined to be incomplete, the plan shall be returned to the applicant either in person or by certified mail with a letter indicating that insufficient information has been provided making it impossible for the Board to adequately review the plan, to approve the plan or endorse the plan as "Approval Not Required." A copy of the transmittal letter shall be provided to the Town Clerk and submitted for the record at the next Planning Board Meeting

2.03 PLANS BELIEVED NOT TO REQUIRE APPROVAL (ANR)

The following provisions apply to all plans for which "Approval Not Required" endorsement is desired.

2.03.a "Approval Not Required" Plan Submission Requirements.

Any person may submit a plan seeking endorsement that the plan does not require approval under the Subdivision Control Law by providing the Board with the following:

1. An original plan and thirteen (13) prints of the plan showing:

- (a) The area, frontage and dimensions of the lot or lots requiring endorsement and any contiguous lots in common beneficial ownership whose dimensions are altered by the plan
- (b) The date of the plan, scale, north point;
- (c) The names of the record owner and the applicant, and the name, seal and signature of the registered surveyor.
- (d) Abutting properties with the names of owners from the most recent tax list and showing all relevant abutting lot lines; however, in the case of land-courted land, the plan shall conform to land court rules and shall separately show disclose current ownership;
- (e) Zoning classification data, wetlands, Areas of Critical Environmental Concern, existing and proposed boundary monuments to the extent practical set at the corner of each lot , tidal areas and floodplains;
- (f) The Assessor's map and parcel number as it is recorded on the official tax maps of Wellfleet and recently recorded plans for the parcel;
- (g) The name(s) of the way(s) on which the lots front, or to which the lots are contiguous;
- (h) The physical condition of the way(s) shown on the plan including actual width, surface condition and available drainage;
- (i) An area set aside for the signatures of Board members, file number and date of endorsement preceded by the words "Approval Under the Subdivision Control Law Not Required, Wellfleet Planning Board";
- (j) A locus plan containing sufficient information so that the land can be readily located, including streets bounding on or near the property;
- (k) Each plan shall contain a note or notes as to the compliance of each lot shown thereon with the Lot Area and Frontage requirements as provided in the *Wellfleet Zoning Bylaws*.

2. A properly executed Form A application as shown in the Appendix.

3. Necessary evidence to show that the plan does not require approval and proper positive documentation that every lot within the divided tract has frontage either on a

public way or a way which the Town Clerk certifies is maintained and used as a public way or a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law; or a way in existence on February 02, 1950, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. All plans seeking Approval Not Required endorsement shall be accompanied by adequate evidence that there is practical interior access to house sites.

2.03.b "Approval Not Required" Plan Filing Procedures.

Persons seeking endorsement of plans "Approval Not Required" shall submit a sufficient number of such plans, either by registered mail or in person, to the Wellfleet Planning Board at the Town Hall, 300 Main Street, Wellfleet, MA 02667 In order to be included in the agenda for consideration at a Planning Board meeting the plan must be submitted to the Planning Board office before noon of the seventh day before the meeting. Any plans received after the deadline will automatically be carried over to the agenda for the following meeting, unless the chair, with staff's recommendation, determines there are special circumstances that warrant a late submittal. The applicant shall pay a fee as stated in these regulations. The applicant shall also file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination.

2.03.c "Approval Not Required" Plan Action

If the Board determines that the plan does require approval, it shall, without a public hearing and within twenty-one (21) days of submission, notify the applicant and the Town Clerk of the determination.

If the Board fails to take action within twenty-one (21) days of submission, the plan is automatically deemed not a subdivision plan and the Board shall forthwith make such endorsement. On its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

2.03.d Ways in Existence

Existing ways will be determined by the Board to provide adequate access to qualify a plan as not constituting a subdivision only when the layout, design and construction meet the standards of these *Rules and Regulations*.

2.04 PRE-SUBMISSION REVIEW (SKETCH PLAN) OF A SUBDIVISION PROPOSAL

Prior to investing in extensive professional design efforts for subdivision plans, it will often prove useful to review the proposed development of a parcel of land with the Board in an informal manner, in order that general approaches, and potential problems can be freely explored. Pencil sketches and other illustrations, which need not be professionally prepared, will assist the discussion, and might show some, but not all, of the information

shown on a Preliminary Plan. In some cases, pre-submission review may eliminate the advisability of submitting a Preliminary Plan. However, the pre-submission review provision is strictly a voluntary procedure left to the discretion of the Applicant. The pre-submission review has no legal status whatsoever.

2.05 PRELIMINARY PLAN

A Preliminary Plan of a Residential Subdivision may, and a Preliminary Plan of a Nonresidential Subdivision shall, be submitted by the Applicant, in sufficient numbers for discussion and approval, modification or disapproval by the Planning Board and other Boards or Commissions having jurisdiction over the lands involved. The submission of such a Preliminary Plan will enable the Applicant, the Planning Board, and other municipal agencies to discuss and clarify the problems of such a subdivision before extensive engineering costs are incurred in the preparation of the Definitive Plan.

2.05.a Submission Requirements for Preliminary Plans shall show:

- (1) the subdivision name, boundaries, any existing boundary markers, any significant features existing on the property, north point, date, scale, legend and title "Preliminary Plan;"
- (2) the names of the record owner and the Applicant and the names of the designer, engineer or surveyor;
- (3) the names and addresses of record of all Abutters, as determined from the most recent tax list;
- (4) the existing and proposed line of streets, ways, easements, any public or common areas and lots shown in a general manner;
- (5) a schematic representation of the proposed system of drainage, including adjacent existing natural waterways;
- (6) the approximate boundary lines of proposed lots, with approximate areas and dimensions;
- (7) the names, approximate location and widths of adjacent streets;
- (8) the topography of the land in a general manner, including areas of the tract suspected to be flood prone and/or wetlands;
- (9) a vicinity map of the plan showing the location of the parcel as it relates to areas of the community within at least one-half mile of the tract boundaries (suggested scale: 1"=2,000');
- (10) the zoning classification, including overlay districts, if any, of the land to be subdivided;

(11) proposed sewage and water systems, if applicable, will be shown in a general manner.

2.05.b Filing Procedures for Preliminary Plans

An application for consideration of the Preliminary Plan shall be accompanied by a sufficient number of prints of the plan and a filing fee as provided in these regulations. The Applicant shall also file a sufficient number of copies with other Boards and Commissions having jurisdiction over the lands involved. The applicant shall give written notice to the Town Clerk of Wellfleet by delivery or by registered mail, postage prepaid, that the Applicant has submitted such a plan.

2.05.c Plan Action for Preliminary Plans

Within forty-five (45) days after submission of a Preliminary Plan, the Board shall either approve the plan with or without modifications, or the Board shall disapprove the plan. In the case of disapproval, the Board shall state its reasons there for. The Board shall notify the Town Clerk of its action in writing. The action of the Board shall be on two copies of the Preliminary Plan, referenced and attached to any conditions. One copy shall be returned to the applicant and the other retained by the Board. Approval of the Preliminary Plan does not constitute approval of the subdivision for recording but does facilitate the procedure in securing approval of the Definitive Plan. The *Rules and Regulations Governing the Subdivision of Land* in effect at the time of its submission shall govern the Definitive Plan evolved from such Preliminary Plan, provided that the Definitive Plan is duly submitted within seven months from the date of submission of the Preliminary Plan and said Definitive Plan is ultimately approved. Such exemptions shall endure for eight (8) years from the date of Definitive Plan approval.

2.06 DEFINITIVE PLAN OF A SUBDIVISION

The Definitive Plan of a subdivision shall conform substantially to the Preliminary Plan as approved but may constitute only that portion which is proposed to be recorded and developed at the time. The subdivision *Rules and Regulations* and zoning in effect at the time of the submission of the Preliminary Plan shall govern the Definitive Plan if it is duly submitted within seven months.

Applicants are strongly urged to schedule a pre-submission conference and site tour with the Planning Board and its staff to identify as early as possible any items requiring special attention.

2.06.a Submission Requirements

An Applicant seeking approval of a Definitive Plan of a subdivision shall file with the Board the following:

(1) All prior Subdivision approvals associated with this land,

(2) The drawings of the Definitive Plan and a sufficient number of prints thereof which shall be distributed to the Planning Board and for review to the following agencies: Conservation Commission, Department of Public Works, Fire Department, Police Department, the Board of Health and the Water Commissioners.

(3) A street network plan showing, at a minimum, proposed, existing, and adjacent streets, names and locations of Abutters, north arrow, and any adjacent features.

(4) A properly executed application in the form (shown as Form B in the Appendix) which form may be changed from time to time by the Planning Board.

(5) A list of the names and mailing addresses of all Abutters, certified as complete by the Tax Assessor, plus a set of gummed mailing labels bearing these names and addresses plus a set of certified mailing materials, i.e., both (1) Receipts for Certified Mail and (2) Domestic Return Receipts, all appropriately and completely prepared for mailing.

(6) A filing fee as provided in these regulations.

(7) In addition to the filing fee, applications shall be accompanied by a check in accordance with Section 2.06(k) located herein, to be deposited into a Road Inspection Escrow Account within the Town Treasury, to be kept separate from other funds, the proceeds of which shall be drawn upon from time to time by the Board to pay for costs associated with the inspection of the applicants and required public improvements.

(8) A proposed covenant or bond in accordance with Section 2.06f - Performance Guarantee.

(9) Notice to Town Clerk: The applicant shall give written notice to the Town Clerk by delivery or by registered mail, postage prepaid, that he has submitted such a Definitive Plan, accompanied by a copy of the application, within forty-eight (48) hours of submission. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefore to the person who delivered such notice. Such notice shall describe the land to which the plan relates sufficiently for identification, and shall state the date when such plan was submitted and the name and address of the owner of such land; and the facts stated in such notice shall be taken by the Town Clerk as true, unless contrary is made to appear. If sent by registered mail, the date of the mailing shall be the date of submission of the Definitive Plan.

(10) The Definitive Plan shall be considered submitted only when all plan requirements specified in Section 2.06(a) and 2.06(b) of these *Rules & Regulations* are included, unless waived in writing by the Board, as provided in Section 1.05.

(11) The Planning Board shall require the submission of storm drainage runoff flow calculations in order to evaluate the drainage plan, including a statement by a

professional engineer that the plan has capacity to properly handle the runoff for a 25-year storm.

(12) If, in the opinion of the Planning Board, the size, scale or location of the subdivision may result in a significant impact on the surrounding road system, the Board may require the applicant to submit a traffic study. The study shall be prepared by a professional engineer specializing in traffic analysis, and identify, at a minimum, the following:

- (a) Internal vehicular circulation patterns
- (b) Estimated daily and peak hour vehicle trips
- (c) The measured daily and peak hour traffic flows, both weekday and weekend (nonholiday), measured during the period between June 15 and September 15, or other times as the Board may deem appropriate, on public and private roads and key intersections expected to be impacted by the project
- (d) Proposed composite daily and peak hour traffic on public and private roads and key intersections: a documentation of impacts on level of service
- (e) Suggested remedial measures to mitigate the expected impacts of the proposed subdivision. Applicants are urged to meet with the Planning Board or planning staff prior to preparation of the study to identify the study area and the appropriate elements of the traffic study.

(13) The Applicant shall submit a proposed Homeowners' Association Agreement that will be registered with the Subdivision Plan, clearly stating the responsibilities of the homeowners for the upkeep of the roads and common facilities.

2.06.b Contents of the Definitive Plan

A Definitive Plan of a subdivision shall be drawn by a registered land surveyor at a scale of one inch equals forty (40) feet, or such other scale as the Board may accept to show details clearly and adequately, but no smaller than one inch equals one hundred feet. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall show the following:

- (1) Subdivision name, if any; boundaries, existing and proposed boundary markers, north point, date, scale, legend and title "Definitive Plan;"
- (2) The names of the record owner(s) and the Applicant(s) and the Applicant's engineer and/or surveyor, and the seal and signature of said engineer or surveyor;
- (3) The names of all Abutters, as determined from the most recent local tax list;
- (4) Each lot shall indicate which portions are buildable and shall exclude wetlands and setbacks from rivers, streams, vernal pools and protected areas. This information shall appear on every sheet in the plan;
- (5) The existing and proposed lines of streets, ways and easements and their widths; sidewalks, footpaths, bridle and bicycle paths and their widths; and any public or

common areas within the subdivision. The proposed names of ways shall be shown; however, they shall not be final until they have been approved by the Board.

(6) Sufficient data to determine readily the location, bearing, and length of every street and way line, lot line, boundary line. At least one bound on the subdivision shall show the x and y coordinates relating to the Massachusetts Coordinate System;

(7) The location of all permanent monuments properly identified as to whether existing or proposed;

(8) Boundary lines of lots, lot areas and lot numbers;

(9) Names, location and widths of adjacent streets and streets approaching the subdivision;

(10) On a separate sheet, the applicant shall show the topography of the land (existing and proposed) at two-foot contour intervals; location of areas of the tract suspected to be flood prone and/or wetlands, and existing and proposed watercourses and ponds. Elevations must refer to a known benchmark using the half-tide datum plan established by the U.S. Geological Survey or the National Geodetic Survey;

(11) A vicinity map showing the location of the parcel as it relates to areas of the community within at least one half mile of the tract boundaries (suggested scale: 1"=2000'). The vicinity map shall reference the number of the map and parcel as it is recorded on the official Assessor's maps of Wellfleet;

(12) A signature block to record the action of the Board shall be located above the title block in the same lower right area of each sheet;

(13) Location of curbs, gutters and berms;

(14) A typical cross section of road(s) within and outside the subdivision proposed to be constructed or improved shall be shown on a separate sheet;

(15) Proposed system of storm drainage, including natural waterways, manmade systems, drainage easements, both within and adjacent to the limits of the subdivision shall be shown on a separate sheet;

(16) Profiles of Proposed Streets and Utilities may be made on a separate sheet and shall show existing center lines, existing side lines, proposed center lines with elevations every fifty feet, except that in vertical curves elevations shall be shown at every twenty-five foot interval; all existing intersecting walks and driveways, if any, shall be shown on both sides as well as the location of existing and proposed drainage lines and their appurtenances; sizes of all pipes shall be shown as well as inverts of all pipes at each man-hole or catch basin, together with invert elevation and rim elevation of each man-hole or catch basin; all centerlines, street lines and curb lines with elevations every

twenty-five (25) feet of streets for two hundred (200) feet either side of each intersection on a connecting street shall be shown. Plans, profiles and cross sections of access roads to be improved shall be prepared at the same scale and in the same format as those drawn for proposed streets.

(17) Each Plan shall contain a note or notes as to the compliance of each lot shown thereon with the Lot Area requirements as provided in the *Wellfleet Zoning Bylaw*.

2.06.c Review by Board of Health

At the time of filing of the Definitive Plan, the subdivider shall also file with the Board of Health a sufficient number of copies of the Definitive Plan and comply with other Board of Health requirements, including percolation tests and test excavations.

The Board of Health shall, within 45 days after filing of the plan, report to the Planning Board in writing, with their recommendation of approval or disapproval of said plan. If the Board of Health disapproves said plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public's health. The Planning Board will not act on the application until after the Board of Health has acted or after 45 days.

2.06.d Review by Other Officials

Before the Definitive Plan is submitted, the Applicant shall consult with and obtain written statements that the proposed improvements shown on a separate Utility Plan or Road Plan and Profiles are laid out to the satisfaction of the following authorities and for the facilities listed below:

(a) If applicable, the Chief of the Fire Department as to the location of hydrants, adequacy of water flow at the hydrant, the layout of a fire alarm system, including location of boxes and location and installation of emergency water supply systems for fire fighting in the Subdivision, or nearby.

(b) The Department of Public Works as to the requirements for provision for connections to and compatibility with the sewer system and, if required, the layout and design of the necessary connecting mains, laterals, manholes, and stubs for such system. In such cases, review by the DPW Superintendent will include the profiles of the streets.

(c) The Board of Water Commissioners, if appropriate, as to the location and size of water mains, including service to the fire hydrants.

(d) The Conservation Commission as to the requirements under the Wetlands Protection Act (M.G.L. Chapter 131, Section 40 and 40A), the ACEC and the Rivers Act.

2.06.e Staking of Subdivision

In order to facilitate on-site review by the various reviewing agencies, the applicant shall, before the time of filing of the Definitive Plan, stake and brush cut to a maximum of five (5) feet the centerline of all proposed ways in the subdivision and shall stake all points where lot lines intersect rights-of-way.

2.06.f Performance Guarantee

Before endorsement of its approval of a Definitive Plan, the Planning Board shall require that the construction of ways and the installation of municipal and private utility services be secured by one of the four methods listed below, or a combination of methods which, from time to time, may be varied by the Applicant upon approval of the Board:

(1) By a bond, sufficient in the opinion of the Planning Board to secure performance of the construction of ways and the installation of municipal services required for lots in the subdivision shown on the plan, and the Planning Board shall require that the applicant specify the time within which such construction shall be completed. The bond shall be at least three times the estimated costs to complete the work required, with a minimum value of \$50,000 (fifty thousand dollars).

(2) By a deposit of money or negotiable securities sufficient in the opinion of the Planning Board to secure performance of the construction of ways and the installation of municipal and private utility services required for lots in the subdivision shown on the plan, and the Planning Board shall require that the applicant specify the time within which such construction shall be completed. The deposit shall be at least three times the estimated costs to complete the work required, with a minimum value of \$50,000 (fifty thousand dollars).

(3) By a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways 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 acquired 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 covenant which provided that no lot shall be built upon until such ways and services have been provided to serve each lot; and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board. A suggested, but not required, form of the covenant is given by Form C in the Appendix ; which form may be changed from time to time by the Planning Board. If the Applicant elects to secure by covenant, the Applicant will file a status report with the Planning Board on every third anniversary of the approval. Failure to file that report may be cause for rescission of the approval.

Any covenant given under the preceding paragraph shall be either inscribed on the plan or contained in a separate document, referred to on the plan.

(4) By delivery to the Planning 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 Planning Board and otherwise due the applicant to secure the construction of ways and the installation of services. Said agreement shall also provide for a schedule of disbursements which may be made 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 for completion.

The form of the performance guarantee may be as given by Form D, or Form E in the Appendix, or as otherwise required by the Board and shall be contingent upon the completion of said improvements within two (2) years of the date of the Agreement. At the discretion of the Board, a time extension may be granted for a period not to exceed one (1) year; provided such an extension may be conditioned upon an increase in the amount of such bond or security as determined by the Board.

The failure of the applicant to complete the required construction of ways and installation of municipal services within two (2) years from the date of the Agreement shall be grounds for the rescission of the approval of the plan.

2.06.g Public Hearing

Before approval, modification and approval or disapproval of the Definitive Plan, a public hearing shall be held by the Board after proper advertisements and notification of abutters as provided by Section 81T of the Subdivision Control Law.

2.06.h Plan Action

After the public hearing, the Board shall approve, or, if such plan does not comply with the Subdivision Control Law, these *Rules and Regulations* or recommendations of the Board of Health, shall modify and approve, or disapprove the Definitive Plan. In the event of disapproval, the Board shall state in detail wherein the plan does not conform to the *Rules and Regulations* and recommendations of the Board of Health and shall revoke its disapproval and approve a plan which, as amended, conforms to such *Rules and Regulations* or recommendations.

In the case of a nonresidential subdivision where a preliminary plan has been duly submitted and acted upon or where forty-five (45) days have elapsed since submission of the said preliminary plan, and then a definitive plan is submitted, and failure of the Planning Board either to take final action or to file with the Town Clerk a certificate of such action regarding the definitive plan submitted by an applicant within ninety (90) days after such submission, or such further time may be agreed upon at the written

request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the Planning Board with the Town Clerk.

In the case of a subdivision showing lots in a residential zone, where a preliminary plan has been acted upon by the Planning Board or where at least forty-five (45) days has elapsed since submission of the preliminary plan, and a definitive plan is submitted, the failure of the Planning Board to take final action or to file with the Town Clerk a certificate of such action on the definitive plan within ninety (90) days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension shall be filed forthwith by the Planning Board with the Town Clerk.

In addition to filing a certificate of its action with the Town Clerk, a copy of which shall be recorded by the Town Clerk, in a book kept for this purpose, the Board shall also send notice of such action by registered mail, postage prepaid, to the Applicant at the address stated on the application.

In the case of approval of a plan by action of the Board, after the expiration of twenty (20) days without notice of appeal to the Superior Court, or if appeal has been taken after the entry of a final decree of the court sustaining the approval of such plan, the Board shall cause to be made upon the plan a written endorsement of its approval. The Applicant shall have submitted to the Board a set of plans appropriately prepared for said endorsement and shall have included with these plans a road layout plan. In case of the approval of such plan by reason of the failure of the Board to act within the time prescribed, the Town Clerk shall, after the expiration of twenty (20) days without notice of appeal to the Court, or, if appeal has been taken, after receipt of certified records of the Court indicating that such approval has become final, issue a certificate stating the date of the submission of the plan for approval, the fact that the Board failed to take action and that the approval resulting from such failure has become final. The plan bearing such endorsement or the plan and such certificate, as the case may be, shall be delivered by the Board, or, in the case of the certificate, by the Town Clerk, to the person who submitted such plan.

2.06.i Modification, Amendment, or Rescission of Approved Plans

The Board, on its own motion or on the petition of any interested person, has the power to modify, amend, or rescind its approval of a plan, or to require a change in a plan as a condition of its retaining the status of an approved plan. All of the provisions of the Subdivision Control Law and these *Rules and Regulations* relating to the submission and approval of a plan shall, so far as apt, be applicable to the approval of the modification, amendment or rescission of such approval and to a plan that has been changed under this section.

No modification, amendment or rescission of the approval of a plan or change in such plan shall affect the lots in such subdivision which have been sold or mortgaged in good faith and for a valuable consideration subsequent to the approval of the plan, or any rights

appurtenant thereto, without the consent of the owner of such lots, and of the holder of the mortgage or mortgages, if any, thereon.

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

- (1) the plan as originally approved, or copy thereof and a certificate copy of the vote of the Board making such modification, amendment, rescission or change, and any additional plan referred to in such vote, have been recorded;
- (2) an endorsement has been made on the plan originally approved as recorded referring to such vote and where it is recorded; and
- (3) such vote is indexed in the grantor index under the names of the owners of record of the land affected.

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

2.06.j Appeal by Any Person

Any person, whether or not a party to the proceedings, aggrieved by a decision of the Board of Appeals or by the Planning Board concerning a plan of a subdivision, or by failure of such a plan within the required time, or any municipal officer or board, may appeal to the Superior Court sitting in equity for Barnstable County, provided, that such appeal is entered within twenty (20) days after such decision has been recorded in the office of the Town Clerk or within twenty (20) days after the required time aforesaid, as the case may be, and notice of such appeal is given to the Town Clerk so as to be received within twenty (20) days.

2.06.k Inspection of Improvements

(a) General Procedure and Inspection Escrow Funds

Prior to the endorsement of a plan as approved, and prior to the return of such plan to the Applicant, the Applicant shall be required to deposit with the Treasurer of the Town an amount equal to ten dollars (\$10.00 times the number of linear feet of proposed or reconstructed ways located within and outside of the boundaries of the subdivision, with a minimum deposit of \$5,000.00. The Planning Board shall direct the Treasurer to expend such funds to pay for all reasonable design review, construction inspection services and subdivision modification design reviews by its engineer or other professional persons required to assist the Planning Board in its determination as to the adequacy of the Definitive Plan with regard to the Subdivision Control Law and these *Rules and*

Regulations and as to the adequacy of the subdivision construction and any design modifications to the plan and changes made in the field.

However, no such payment shall be directed until 14 days after a photocopy of the bill purporting to represent charges for such services and review has been sent, by certified mail, to the Applicant. The balance of this account shall at no time be less than one-half the initial deposit, and the Applicant shall deposit with the Treasurer such additional funds as are required to restore the account to the amount of the initial deposit upon notice from the Board, by first class mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or near one-half the initial deposit. The account shall be closed and the remaining funds returned to the Applicant when, in the opinion of the Board, all work required by the approved plan, any conditions placed upon such approval, and any subsequently approved modifications and these rules, and all inspections required by these rules, have been completed.

The failure of the Applicant to make the initial deposit, and to maintain the account in accordance with this section, shall be grounds for rescission of the approval of the plan and for disapproval.

The full cost of any special non-scheduled inspections deemed necessary by the failure of construction to proceed entirely in accordance with the approved plan, or as a result of any question concerning the accuracy of any data provided by the applicant at any time, shall be borne by the applicant.

In the event the Planning Board denies approval of a plan, the account shall be closed and the unexpended funds returned to the applicant within 21 days from the date the subdivision plan was denied an approval.

The Planning Board in its discretion may waive or refund the inspection fee in whole or in part to the extent the Board determines that professional or other services were not required in consideration of the Definitive Plan.

2.06.1 "As Built" Plans, Profiles and Cross-Sections

Prior to release from the performance guarantee of the last twenty (20) percent of the lots in a subdivision, the applicant shall submit "as built" plans and profiles, and cross-sections showing the actual constructed interior and access road(s), including any curbing, shoulders, sidewalks/bicycle paths, drainage facilities, invert and top of frame elevations for drainage structures, utility service connections (including sewer, water, electric, etc.), utilities (including sizes, materials, and locations), "as built" contours for detention and retention basins with contour intervals matching those depicted on the subdivision plan, landscaping installed as per the definitive plan approval, and other appurtenances as may have been required to be constructed. "As built" plans, profiles and cross-sections shall be prepared at the same scale and in the same format as those which accompanied the Definitive Plan. Plans and profiles shall be prepared using data points no less frequently than every fifty (50) feet, except within fifty (50) feet on either side of

any catch basins, in which case data points shall be every twenty-five (25) feet. Plans and profiles shall also show the locations of structures, such as drainage facilities, water lines, sewer lines, electrical, telephone and cable TV lines and their appurtenances, and all concrete monuments as specified in 4.02c.

Cross-section of the right-of-way showing paving surface, curbing, shoulders and sidewalks/bicycle paths shall be submitted for section every two hundred (200) feet as measured from the centerline of adjoining streets. Nine (9) elevation points shall be shown across the right-of-way, including centerline of road, five (5) feet off centerline in both directions, both edges of surface, edge of right-of-way, top of slope or toe of slope and edge of shoulders. Two (2) inch or greater core samples shall be taken and reported along with each cross-section to determine thickness of paving material, said samples to be determined by the Planning Board.

"As Built" plans, profiles and cross-sections shall be prepared by, bear the stamp of, and be signed by a Registered Land Surveyor or Registered Engineer, and shall include the statement "I hereby certify that the plans, profiles and cross sections included herein were prepared as the result of survey work performed on the ground and represent conditions in the field as they existed on (date). If the "As Built" Plan indicates changes from the original approved Plan, it shall be at the discretion of the Planning Board as to corrective actions.

2.06.m Roadway Maintenance & Open Space Management

The Planning Board shall require the formation of a Home Owners' Association for subdivisions containing common open areas and/or ways which will remain private, the purpose of which is to maintain said private ways and open spaces for the protection of the lot owners in the subdivision.

In cases where a home owners' association is required, the form and content of which shall be subject to the review and approval of the Planning Board, which shall provide for the following:

- (1) Establishment of a maintenance trust fund to be drawn upon from time to time by the association to perform needed maintenance to and reconstruction of private roads, as well as maintenance of common open spaces in the subdivision. Said fund shall consist of two parts. (a) A maintenance endowment shall be established by the developer in the amount of five-hundred (\$500) dollars per lot, prior to the release of any lot in the subdivision. (b) Annual maintenance deposits shall consist of interest generated by the endowment and annual assessments made to association members, the amount of such annual assessment to be established by majority vote of the Association.

**SECTION III
SUBDIVISION LAYOUT DESIGN STANDARDS**

3.01 ZONING

All lots intended for building of dwellings that are shown on the plan shall comply with area, frontage and other requirements of the *Wellfleet Zoning Bylaw*.

3.02 PUBLIC OPEN SPACES

The Planning Board may require reservation of open space for up to three years to give the Town the opportunity to purchase it for park or recreation purposes. The Planning Board shall not require reservation of more than 15% of the gross area of the subdivision for such purposes and shall not require reservation in subdivisions smaller than four acres, except in extraordinary circumstances.

3.03 FLOOD PRONE AREAS

All subdivisions shall be designed with due regard to the prevention of loss of life and property due to flooding.

3.04 PROTECTION OF NATURAL FEATURES

Due regard shall be shown for all natural features, such as large trees, water courses, scenic points, historic locations and similar community assets which, if preserved, will add attractiveness and value to the neighborhood.

3.05 FURTHER SUBDIVISION

In case a tract is subdivided into larger parcels than ordinary building lots, such parcels shall be arranged so as to allow the logical and economic extension of streets, utility easements, drainage ways and public areas into such parcels.

3.06 REVERSE LOT FRONTAGE

The Board may require that access to a proposed lot not be from existing major thoroughfares.

3.07 STREET SYSTEM

The street system shall comply with the following requirements for locations and alignments:

3.07.a Streets shall be continuous and in alignment with existing streets as far as practicable;

3.07.b Provisions shall be made for the proper projection of streets if adjoining property is not subdivided.

3.07.c Streets shall be designed to provide the most direct and convenient access to the site for normal traffic and emergency vehicles, while still respecting the natural contours of the land as far as possible.

**SECTION IV
DESIGN STANDARDS AND REQUIRED IMPROVEMENTS**

4.01 GENERAL

4.01.a Subdivision plans shall comply with the following minimum design standards. Applicants are encouraged to exceed these minimum standards whenever possible.

It is difficult to create design standards appropriate to all types and sizes of subdivisions. While the standards included here are applicable to the vast majority of cases, there may be limited instances where different standards may apply particularly for commercial and large-scale development. For this reason, applicants are urged to discuss their proposals with the Planning Board staff and Board members early in the concept stage of planning, before money is spent on the final design, in order to determine if any different or additional standards would apply due to the unique character of the proposal.

4.02 MONUMENTS

4.02.a Monuments shall be installed on both sides of the street (a) at all intersections, (b) at all points in change of direction or curvature, and (c) no less frequently than one monument every five hundred (500) feet for straight sections.

4.02.b Monuments shall be installed at each Lot corner.

4.02.c All monuments shall be of reinforced concrete, five (5) inches by five (5) inches by thirty (30) inches. Monuments to be set shall be shown on "As Built" plans as a solid box.

4.03 ROADS

4.03.a Right-of-way width shall be not less than forty feet.

4.03.b All roads shall be designed so that they will provide safe vehicular travel. Due consideration shall be given by the subdivider to the attractiveness of the street layout.

4.03.c Provision shall be made for the proper projection of roads, or for access to adjoining property which is not yet subdivided. Reserve strips prohibiting access to roads or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips are in the public interest.

4.03.d Street jogs with centerline offsets of less than 125 feet should be avoided. The minimum centerline radii of curved streets shall be 125 feet. Greater radii may be required for principal streets.

4.03.e There shall be access to all lots via streets and portions of streets no part of which shall be less than ten feet elevation.

4.03.f Centerline grades of streets shall be not less than 0.5%. Centerline grades shall not be more than 10.0% for principal streets.

4.03.g No street shall intersect any other street at less than 60 degrees.

4.03.h Property lines at street intersections shall be rounded with a radius of not less than 20 feet.

4.03.i Changes in grading exceeding (0.5) of one percent shall be connected by vertical curves of sufficient length.

4.03.j Sight distances for subdivision roads intersecting other roads may not be less than 300 feet.

4.04 DEAD-END STREETS

4.04.a Dead-end streets shall not be longer than one thousand (1,000) feet unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions.

4.04.b Dead-end streets shall be provided at the closed end with a turnaround having an exterior layout radius of at least eighty (80) feet. The roadway shall have an exterior radius diameter of at least sixty five (65) feet. An island suitably landscaped with grass, ground cover, trees, natural rock and/or elements blending with the surroundings, shall be provided in the center of the turnaround with a radius diameter of at least thirty (30) feet.

An island shall not be required in a temporary turnaround; however, the turnaround shall be paved. When the dead-end street is extended, the turnaround easement shall terminate and the applicant shall be required to remove, re-grade and restore the turnaround area to the satisfaction of the Planning Board.

4.05 ROAD CONSTRUCTION

The following improvements shall be made by the subdivider without expense to the Town.

4.05.a Clearing. The entire area of each street or way which is to be utilized for pavement and shoulders shall be cleared of all stumps, brush, roots, boulders, like material and all trees not intended for preservation or the entire way when deemed necessary for adequate sight distance.

4.05.b Foundation. A material not suitable as foundation material (see below) shall be removed from an area four feet wider than the paved width to provide for a two foot shoulder on each side of the paved area, and to a depth of at least three inches below the finished grade. Peat, silt, loam, or similar yielding material or clay, shall be removed to a firm foundation. Subdrains shall be installed if deemed necessary by the Highway Surveyor. The excavation shall be backfilled to six inches below subgrade with approved gravel consisting of hard durable stone or coarse sand and containing no stone having a dimension

greater than one and one-half inches. A minimum of six inches of suitable hardening shall be required as a sub-base. Extreme care shall be taken to ensure that all trenches for utilities have been thoroughly compacted to prevent future settling.

4.05.c Pavement. All roadway surfaces within the right-of-way shall be paved with a two course plant hot mix hot-laid bituminous concrete, Class I Type I-1, two and one-half inches on roadways and two inches on driveways. Pavement shall be twenty feet width on streets to ultimately service not more than twenty house lots or on streets with no lots fronting on them; twenty-four feet width on streets providing lot frontage and servicing the traffic equivalent of between twenty and fifty house lots; twenty-eight feet width on a street providing lot frontage and servicing the traffic equivalent of more than fifty house lots.

4.05.d Berms. A paved berm of a minimum width of sixteen inches shall be installed on the pavement on all streets with grades in excess of three percent and in other locations if deemed necessary by the Highway Surveyor due to special conditions of topography, drainage or alignment.

4.05.e Road Maintenance The applicant shall be required to establish a Road Maintenance Endowment fund, of a sum to be specified by the Board, to ensure the proper long-term maintenance of the road(s). This fund shall be administered by a Homeowner's Association.

4.06 STORM DRAINAGE

4.06.a Storm drains, culverts, and related facilities shall be designed to permit the unimpeded flow of all natural water courses, to ensure adequate drainage of all low points along streets, to control erosion, and to intercept storm water run-off along streets at intervals reasonably related to the extent and grade of the area drained.

4.06.b Drainage facilities shall be designed based on coastal flooding to ten feet elevation. Storm sewers shall be based on a ten-year frequency storm, and culverts shall be based on a twenty-five-year frequency storm.

4.06.c Generally, catch basins or other provisions for drainage will be required on both sides of the road at intervals not over 400 feet, and at all sags or low points along roads.

4.06.d Open drainage systems of swales, ridges, and slopes shall be designed to fit the natural contour of the land as much as possible. Disturbed land shall be landscaped to conform to the surrounding area and planted to eliminate the possibility of erosion and siltation. In no case shall side slopes in disturbed areas be greater than twenty-five (25) percent. Swales and drainage channels shall have a minimum grade of one half of one (0.5) percent and a maximum grade of five (5) percent, although for small areas draining not more than one-half (0.5) acre, grades of up to ten (10) percent are permissible. The ground shall be sloped so that there is no stagnant water or artificial pools on the site attributable to the open drainage system. Drainage channels and swales shall be provided with easements which shall also permit access by the Town of Wellfleet for maintenance purposes. Drainage channels and swales shall be shown on all plans.

Where the Planning Board determines that the public interest and best interest of the Town and the subdivision will be served by extension of the drainage system outside the boundaries of the subdivision, the Planning Board may require the Applicant, at his own expense, to continue the layout and construction of the drainage system to a point outside the boundaries of the subdivision where the drainage system may be connected to, and be compatible with, either a natural waterway or an existing public drainage system

4.07 UTILITY EASEMENTS

If applicable, easements for utilities, bicycle paths and pedestrian paths shall be provided and recorded as required and shall be at least twenty (20) feet wide for water mains, sanitary sewers and storm drains, ten (10) feet wide for underground electrical, telephone and cable TV lines, and fifteen (15) feet wide for bicycle and pedestrian paths. Slope easements and site and/or scenic easements may be required where deemed necessary. Where a subdivision is traversed by a water course, drainage way, channel, other stream or wetland, the Board may require the provision of an easement of adequate width to conform substantially to the line of such water course, drainage way, channel, stream or wetland and to provide for the possibility of flood, protection of banks, future maintenance or construction and other necessary purposes.

4.08 ADEQUATE ACCESS TO THE SITE

No subdivision shall be approved which does not have adequate access to the site. The applicant shall show to the satisfaction of the Board:

(a) Adequate vehicular access to the subdivision has been provided by a way, or ways, having sufficient width, suitable grades and adequate construction to provide for vehicular traffic and to ensure direct ingress and a rapid response time for emergency vehicles. The Board may require that secondary access be provided for reasons of public safety and convenience. Said vehicular access shall meet the Town's Specifications for paved roads described in Section 5. Access roads may, at a minimum, meet the Town's specification for Stabilized Gravel Roads provided that the maximum number of lots permitted under current zoning density requirements does not exceed six lots.

(b) Adequate utility access from existing utility lines to the subdivision designed to deliver underground utility service to serve the land and buildings erected or to be erected thereon.

(c) The legal right to pass and repass over such access way or ways and the legal right to install underground utilities in the proposed location.

4.09 SHOULDERS

Pitched shoulders shall extend two (2) feet immediately outside the treated surface, and the slopes joining sideline of right-of-way to natural grade shall not be steeper than two (2) horizontal to one (1) vertical. The two (2) foot shoulder shall be spread with four (4) inches of loam, and seeded with grass seed. The remaining area disturbed during the

construction program shall be cleared of rocks, stones, or other debris and also spread with four (4) inches of loam, and seeded with grass seed. The plane of the loam on the strip between the sideline of right-of-way and the shoulder shall be two (2) inches above the plane of the loam and the seeded shoulder.

4.10 GUARD RAILS AND POSTS

Guard rails or posts shall be installed where necessary.

4.11 STREET SIGNS

Street signs conforming in design to the pattern in use by the Town and bearing the names of the intersecting streets as indicated on the Definitive Plan shall be installed at all intersections of streets in the subdivision. Street names shall appear on both sides of the sign if placed on a post.

4.12 UTILITY LINES

Utility lines shall be placed underground in accordance with the Massachusetts Department of Public Utilities regulations. All lines shall be placed in conduits in all locations where these lines pass under roadway surfaces.

4.13 LANDSCAPING

A landscape plan for the purposes of restructuring the area after construction shall be presented as part of each subdivision plan. This plan shall clearly show:

- the location and size of all proposed trees and other plantings; and
- the location and size of all existing trees and other vegetation on the site which is to be preserved.

The following standards shall apply:

- (1) Existing vegetation shall be preserved wherever possible on every site. All existing trees over twenty (20) inch caliper, as well as any tree which has been flagged by the Planning Board or its designee, shall be shown on the landscape plan.
- (2) New trees shall be planted on subdivision lots in order to provide shade, visual-and wind-screening, habitat for birds and other wildlife, and visual amenity for future residents.
- (3) New tree plantings shall be of a type which are resistant to breakage and are long lived, clean, and appropriate to the local landscape and growing conditions. Said trees are to be taken from a list of native trees and plants prepared by the Conservation Commission and found in the Appendix.
- (4) Trees and plants which are invasive shall be avoided. A list of trees and plants prepared by the Conservation Commission is found in the Appendix.

(5) The subdivider shall be responsible to ensure the survival of all new trees and plantings for a period of one year from the date of their installation. A security, in an amount deemed sufficient by the Board, shall be held by the Board and released upon its certification that the landscaping requirements, including survival of all new plantings, have been met.

4.14 FIRE ALARM SYSTEMS AND EMERGENCY WATER SUPPLY SYSTEMS FOR FIRE FIGHTING

Subdivisions of fifteen (15) lots or greater not served by a public water system shall be provided with an emergency water supply system or, where a natural pond exists, a dry hydrant system.

The location, installation and final testing for said systems shall be subject to the approval of the Wellfleet Fire Department and shall be of a design capacity as the fire load for the development may require. A natural pond proposed to be used as a backup source for water for fire fighting shall have adequate access to such pond to accommodate the weight and size of a fire pumper truck

4.15 BRIDGES

All bridges shall be built according to Massachusetts standards.

SECTION V
SPECIFICATIONS FOR CONSTRUCTION OF THE REQUIRED
IMPROVEMENTS

5.01 GENERAL

All improvements specified or implied on the Definitive Plan shall be designed and constructed by the applicant in accordance with the provisions of this Section of the *Rules and Regulations* or as directed by the Board. Items not specifically mentioned herein shall be constructed in accordance with the Standard Specifications for Highways and Bridges of the Massachusetts Department of Public Works, and including revisions thereto (hereinafter referred to as the Mass. DPW Specifications), unless specifically directed otherwise by the Board.

All work performed by the applicant as a consequence of these *Rules and Regulations* will be subject to the review and acceptance or approval of the Board. The Board may employ a Registered Professional Engineer to act as its agent for the inspection and supervision of the Work, and if so employed, the costs shall be paid by the applicant. In order for the Board to properly inspect the work as it progresses, the applicant shall keep the Board or its Agent, informed of the progress of the work, and shall at any time provide safe and convenient access to all parts of the work for inspection by members of the Board or its Agent or such persons as the Board may designate. No work will be approved which has been covered prior to inspection by subsequent work. Reference should be made to Section 6 for specific inspections required by the Board.

5.02 SUBDIVISION LAYOUT

The subdivision, including all way lines and drain lines and municipal services, shall be laid out as to line and grade by a Registered Land Surveyor. Any work which, in the opinion of the Board, has not been properly laid out or does not conform to the plans may be checked by a Registered Land Surveyor employed by the Board. If the Board determines that such work does not conform to the plan, the applicant shall pay all costs which the Board incurs as a consequence of checking the work. The Board may require the removal and correct replacement of any work which has been incorrectly laid out.

5.03 CLEARING, GRUBBING, AND EXCAVATION

All streets shall be graded by removal of all existing brush, stumps and topsoil below the finished grade, to a width of the area occupied by the roadway plus an additional four (4) feet on each side or extending outward to the toe of slopes in fill areas, whichever is greater. Any loam, peat or other material not considered suitable as a subbase shall be completely excavated and replaced with a structural grade material.

5.04 ON-SITE DISPOSAL OF BRUSH AND TREES

There shall be no on-site disposal of brush, trees and other debris from the subdivision work.

5.05 SLOPE STABILIZATION AND EROSION CONTROL

Adequate erosion protection measures (vegetative and/or structural) shall be made to prevent surface water from eroding cut and fill side slopes, road shoulders and other areas brought to final grade and to avoid sedimentation in nearby wetlands and ponds. The applicant shall describe in the application his plan for minimizing erosion and also a proposed method for controlling airborne dust during construction and before landscaping and ground cover has rooted and grown sufficiently to retard erosion.

Erosion protection measures may include the use of mulches and temporary or permanent cover crops. Types of mulch material effective for erosion control are shredded or chopped cornstalks, hay, straw and wood chips. Mulch areas damaged after heavy rainfalls, severe storms and construction activity shall be repaired as soon as discovered.

Where plantings are on areas subject to mulch removal by wind or water flows or where side slopes are steeper than 3:1 or higher than 10 feet above the road level, the mulch shall be anchored. Anchoring methods may include tucking the mulch into the soil with a straight-blade disk, stapling netting (cotton or paper) over the mulch or driving pegs into the mulched area at intervals of about four (4) feet and interlacing them with twine.

The Board may require temporary or permanent diversions, berms, grassed waterways, special culverts, shoulder dikes and land grading, where applicable or such other mechanical measures as are necessary to intercept and divert surface water runoff. Retaining walls may be required where side slopes are steeper than 3:1.

The mouths of all catch basins shall be fitted with filter fabric during the entire construction process to retard siltation.

SECTION VI INSPECTION

6.01 GENERAL

All work performed as a consequence of these *Rules and Regulations* shall be subject to the review of the Board which shall approve and accept or disapprove and reject each phase, or portion, of such work and at completion shall recommend the acceptance of all work or disapproval of the work with reasons therefor. The Board may employ a Registered Professional Engineer to act as its agent in the inspection of the work to insure compliance with these *Rules and Regulations* and to report to the Board his recommendations as to approval or disapproval of the work. Such Engineer will make certain inspections as prescribed herein in order to check the adequacy of the work at various stages prior to such work being covered by subsequent work. The Board, its Engineer, and such other persons as the Board may designate, shall have the right to inspect the work at any time. The applicant shall at any time provide safe and convenient access to all parts of the work for inspection by the Board or its authorized agents.

All work which has been disapproved or is not acceptable to the Board shall be removed and replaced or otherwise corrected to the point of complying with the requirements of the Board for acceptance. Any work which has been covered by subsequent work prior to acceptance, or is otherwise not available or obscured to the point of rendering inspection of the work difficult, shall be considered to be not acceptable to the Board. Such subsequent work shall be removed as directed by the Board or its Agent to insure availability of the work to be inspected as required herein. The release of the performance guarantee shall depend upon the acceptance of all work prescribed herein and as shown on the Definitive Plan.

At points indicated in Section 6.04 the construction of the required improvements shall be inspected by the Board or its Agent. Unless approval of the work completed, including approval of materials used, to each such point has been given in writing, no further work shall be commenced. Such inspections may include the taking of certain samples for laboratory analysis or testing. In such cases, the applicant shall insure that the Board or its Agent, is in no way hindered or obstructed in the course of obtaining such samples. Where such samples are removed from the completed work, the applicant shall replace and restore such work, to the satisfaction of the Board or its Agent, to its condition prior to the taking of the sample.

6.02 NOTIFICATION OF THE ENGINEER

(a) The Planning Board or its designated agent shall be notified at least 48 hours before the completion of each of the stages listed in Section 6.04, in order that they may arrange for proper inspection and approval of the work done. Each stage must be approved by the Planning Board or their Agent before work on the subsequent stage can be started. If the work is not disapproved for cause within five business days, it will be deemed approved.

(b) In the event the Board or its Agent makes an inspection of the work at the time designated and finds that such work is not at the proper stage of completion or that the

work has been covered or otherwise obscured, the Board or its Agent, shall notify the applicant as to the additional steps the applicant shall take to complete the work to the point required, or to the extent the work shall be uncovered or exposed to full view. The applicant shall notify the Board or its Agent again when the work is ready as prescribed in Section 6.02(a).

(c) The applicant shall be liable for costs and fees incurred by the Board as a result of requests by the applicant for an inspection of the work which, in the opinion of the Board, was not an acceptable stage of completion for such inspection.

(d) To defray the cost of each re-inspection of the same improvement caused by the failure of such improvement to meet the applicable specifications, the subdivider shall at the time of each request for each subsequent inspection, pay the Town of Wellfleet the full amount reasonably necessary to cover the costs of such re-inspections.

6.03 LINES AND GRADES

Prior to the inspection of any phase of the work, it shall be the applicant's responsibility to provide sufficient line stakes and grade stakes to insure that a proper inspection may be made. These horizontal and vertical control stakes must be laid out to conform to the lines and grades shown on the approved Definitive Plan or any approved amendment thereto.

6.04 REQUIRED INSPECTIONS

The following inspections of the required improvements shall be required by the Board, such inspections are to be conducted in a timely manner.

Inspection No. 1: Excavation Prior to Subgrading. An inspection shall be made of the work upon completion of all clearing, grubbing and excavation and all work incidental thereto as may be required. No fill shall have been placed at the time of this inspection.

Inspection No. 2: Subsurface Grading and Filling. An inspection shall be made of the compacted fill as may be required to bring the roadways to their proposed grades. The applicant shall notify the Board or its Agent, as to his source of fill as soon as such information is known so that it may be determined if samples and analysis are required. The applicant is advised not to proceed with the filling operation until such time as the Board or its Agent notifies the applicant that the proposed fill is acceptable. If the applicant proceeds with the fill prior to such notice, he does so at his own risk.

Inspection No. 3: Drainage Facilities and Utilities. An inspection will be made of the completed drainage system. At the same time or such other time as the work may be available, an inspection will be made of the completed municipal services (without backfill) as required by the Definitive Plan. The inspection of the required municipal services will be made by the agency responsible for the particular service. Each agency so involved will notify the Board or its Agent of the approval of such work. Backfill of

any portion of the municipal services shall not be made until after receipt of notification of approval or acceptance by the Board or its Agent, or the agency responsible.

Inspection No. 4: Roadway Foundation. An inspection will be made of the compacted roadway foundation.

Inspection No. 5: Pavement Surface Course. An inspection will be made of the completed roadway pavement. Samples of the mix may be taken by the Board or its Agent for the purposes of determining if the roadway specifications and pavement thickness meet the requirements of the approved roadway section as contained within Section 5.08.

Inspection No. 6: Final. An inspection will be made of all work as required on sidewalks, curbing, landscaping, seeding, side slopes, monuments, bounds and cleanup.

6.05 INSPECTIONS DO NOT CREATE RESPONSIBILITY

Any inspection done, or not done, by the Planning Board, or its representative, do not create a liability for the work by the Planning Board.

SECTION VII
EMPLOYMENT OF OUTSIDE CONSULTANTS

7.01 GENERAL

The Planning Board may determine that the size or complexity of a proposed subdivision or its impacts warrant the services of outside consultants (including but not limited to engineers, planners, lawyers, hydrogeologists, or others) for plan review, impact analysis, inspections, or other technical assistance in relation to the proposal. Such professionals shall be selected and retained by the Planning Board as provided in MGL c. 44, § 53G, with the reasonable costs for their services to be paid by the applicant.

7.02 SELECTION AND ADMINISTRATIVE APPEAL

The applicant shall be notified in writing with the name of the selected consultant(s) at least seven calendar days prior to initiation of the consultant's efforts, unless this notice period is waived in writing by the applicant. The applicant may administratively appeal the selection of the consultant(s) to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the proposed consultant has a conflict of interest or does not possess the minimum required qualifications. Such an appeal may be initiated by the applicant filing notice with the Town Clerk within five working days after the Board's date of notice of its selection. The consultant shall not begin its services until any appeal has been decided or 30 calendar days have elapsed without a decision by the Selectmen, in which case the selection of the Planning Board shall stand. Required time limits for action by the Board upon an application shall be automatically extended by the duration of the administrative appeal.

7.03 FUNDING

The applicant shall file with the Board an amount of money equal to the estimated cost for the services of the consultant(s), as determined by the Board. The cost will be estimated so as to be generally proportional to the size and complexity of the project, and the number of reviews and meetings required. The funds shall be deposited by the Town Treasurer into a special interest bearing account as provided by MGL c. 44 § 53G. The funds in the special account, including accrued interest, shall be expended at the direction of the Board without further appropriation. If the unexpended balance falls below 30% of the initial estimate, or the estimate is raised to pay for additional services deemed necessary by the Board, the account shall be restored to its original level or such lower level as determined to be reasonable and necessary by the Board. Upon completion of the project and final payment of the outside consultant(s), any unexpended balance, including accrued interest, shall be repaid to the applicant or the successor in interest.

7.04 REPORTING

The Town Accountant shall submit annually a report of all such special accounts to the Planning Board and Board of Selectmen for their review. The annual report shall be published in the Town Report and a copy submitted to the state Director of the Bureau of Accounts. A final report of the special account for a project shall be submitted to the applicant or his successor in interest.

7.05 REMEDY

Failure of an applicant to pay fees required hereunder (or any other fees required in other parts of this chapter) shall be grounds for the Board to continue hearings, disapprove the application, refuse to release Performance Guarantees, revoke prior approvals, or take other action.

Amended March 6, 2013 with addition of Section VII



TOWN OF WELLFLEET
PLANNING BOARD
WELLFLEET, MASSACHUSETTS 02667

FORM A: APPLICATION FOR SUBDIVISION CONTROL

81-P Plans: File one form and one plan with Town Clerk.
File two forms and ten plans with Planning Board.

Date of Survey: _____ Type: 81-P _____

Plan Title:

Owner: _____

Address: _____

Surveyor: _____

Address: _____

Location: _____ Ass. Map No. _____

Lot No(s): _____ Block No. _____

Recording, Barnstable County Registry of Deeds, Book _____, Page _____

Registration, Barnstable County Land Registry, Doc. No. _____

Book _____, Page _____

Total Acreage _____ Number of Lots Proposed _____

Public Ways to be used _____

Existing Private Ways to be used _____

Date: _____

Action of the Planning Board: _____

Remarks or Conditions: _____

Board Members Acting: _____



TOWN OF WELLFLEET
PLANNING BOARD
WELLFLEET, MASSACHUSETTS 02667

FORM B: APPLICATION FOR SUBDIVISION CONTROL

Subdivision Plans: File one form and one plan with Town Clerk.
File two forms and eighteen plans with Planning Board,
together with two copies of abutters' list. (2 copies).

Date of Survey: _____ Type of subdivision: _____

Plan Title: _____ Preliminary: _____

_____ Definitive: _____

Owner: _____

Address: _____

Surveyor: _____

Address: _____

Location: _____ Ass. Map No. _____

Lot No(s): _____ Block No. _____

Recording, Barnstable County Registry of Deeds, Book _____, Page _____

Registration, Barnstable County Land Registry, Doc. No. _____

Book _____, Page _____

Total Acreage _____ Number of Lots Proposed _____

Public Ways to be used _____

Existing Private Ways to be used _____

Names of Proposed New Ways _____

Date: _____

Action of the Planning Board: _____

Remarks or Conditions: _____

Board Members Acting: _____

Date: _____

Action of the Planning Board: _____

Remarks or Conditions: _____

Board Members Acting: _____

FORM C COVENANT

The undersigned _____ of _____,
_____ County, Massachusetts, hereafter called the "Covenantor", having submitted to
the _____ Planning Board, a definitive plan of a subdivision, entitled
_____ dated _____ made by
_____ does hereby covenant and agree with said Planning Board and the
successors of office of a Said Board, pursuant to G.L., C. 41, Sec. 81U, as amended, that:

1. The covenantor is the owner of record of the premises, shown on said plan;
2. This covenant shall run with the land and be binding upon the executors, administrators, heirs, assigns of the covenantor, and their successors in title to the premises shown on said plan;
3. The construction of ways and the installation of municipal services shall be provided to serve any lot in accordance with the applicable Rules and Regulations of said Board before such lot may be built upon or conveyed, other than by mortgage deed; provided that a mortgagee who acquires title to the mortgaged premises or part thereof may sell any such lot, subject only to the portion of this Covenant which provides that no such lot so sold shall be built upon until such ways and services have been provided to serve such lot;
4. Nothing herein shall be deemed to prohibit a conveyance subject to this covenant by a single deed of the entire parcel of land shown on the subdivision plan or of all lots not previously released by the Planning Board without first providing such ways and services;
5. This covenant shall take effect upon the approval of said plan;
6. Reference to this covenant shall be entered upon said plan and this covenant shall be recorded when said plan is recorded.

EXECUTED as a seal instrument this _____ day of _____ 20__

COMMONWEALTH OF MASSACHUSETTS

_____ ss _____ 20__

The personally appeared _____ and
Acknowledged the foregoing instrument to be _____ free act and deed, before me

Notary Public

My Commission Expires



TOWN OF WELLFLEET
PLANNING BOARD
WELLFLEET, MASSACHUSETTS 02667

FORM D: CERTIFICATE OF PERFORMANCE AND FINAL RELEASE FROM COVENANT

Date: _____
Subdivision: _____
Location: _____
Owner: _____
Address: _____
Applicant: _____
Address: _____

Recording, Barnstable County Registry of Deeds, Book _____, Page _____

Registration, Barnstable County Land Registry, Doc. No. _____

Book _____, Page _____

The undersigned, being a majority of the Planning Board of the Town of Wellfleet, Massachusetts, hereby certify that the requirements for work on the ground called for by the Covenant for the Subdivision cited above dated _____ and recorded at the Barnstable County Registry of Deeds, Book _____, Page _____ or registered in the Barnstable County Land Registry, Doc. No. _____, Certificate of Title No. _____, Book _____, Page _____ have been completed to the satisfaction of the Planning Board as to the following enumerated lots:

_____ as shown on the Plan entitled _____

_____ and are hereby released from the restrictions as to sale and building specified in that Covenant.

Wellfleet Planning Board Date: _____

COMMONWEALTH OF MASSACHUSETTS

On this _____ day of _____, 20 _____

There personally appeared before me _____

Known to me to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

Notary Public

My commission expires



TOWN OF WELLFLEET
PLANNING BOARD
WELLFLEET, MASSACHUSETTS 02667

FORM E: CERTIFICATION OF PARTIAL COMPLETION AND PARTIAL RELEASE OF
MUNICIPAL INTEREST IN SUBDIVISION PERFORMANCE SECURITY

Date: _____
Subdivision: _____
Location: _____
Owner: _____
Address: _____
Applicant: _____
Address: _____
Subdivision Approved _____
Plan Entitled _____
Covenant Dated _____

Recorded, Barnstable County Registry of Deeds, Book _____, Page _____

Registration, Barnstable County Land Registry, Doc. No. _____

Certificate of Title No. _____ Book _____, Page _____

The undersigned, being a majority of the Planning Board of the Town of Wellfleet, Massachusetts, hereby certify that the construction of ways and the installation of municipal services for the subdivision cited above have been fully and satisfactorily completed in accordance with the Board's rules and regulations to serve the following enumerated lots:

Pursuant to Section 81-U of Chapter 41 of the Massachusetts General Laws, and in consideration of the completion of said construction and installation, the Town of Wellfleet, a Massachusetts municipal corporation, acting through its Planning Board, hereby releases its interest in the performance security for the subdivision cited above.

Wellfleet Planning Board

Date: _____

COMMONWEALTH OF MASSACHUSETTS

On this _____ day of _____, 20 _____

There personally appeared before me _____

known to me to be the person described in and who executed the foregoing instrument and acknowledged that he/she executed the same as his/her free act and deed.

Notary Public

My commission expires

Massachusetts Resources for Recommended Plantings

Massachusetts Natural Heritage & Endangered Species Program
Route 135
Westboro, MA 01581
(617) 727-9141

The Nature Conservancy Field Office
79 Milk Street, Ste. 300
Boston, MA 02109
(617) 423-2545

New England Wildflower Society Garden in the Woods
180 Hemenway Road
Framingham, MA 01701
(508) 877-7630

The Conway School of Landscape Design
46 Delabarre Avenue
Conway, MA 01341-01701

Arnold Arboretum
125 Arborway
Jamaica Plain, MA 02130

INVASIVE SPECIES

The subdivider shall not plant any of the following invasive trees or plants:

- Acer platanoides* L. (Norway maple)
Acer pseudoplatanus L. (Sycamore maple)
Aegopodium podagraria L. (Bishop's goutweed; bishop's weed; goutweed)
Ailanthus altissima (P. Miller) Swingle (Tree of heaven)
Alliaria petiolata (Bieb.) Cavara & Grande (Garlic mustard)
 Synonym: *Alliaria officinalis* Andrz. Ex Bieb. *thunbergii* DC. (Japanese barberry)
Cabomba caroliniana A.Gray (Carolina fanwort; fanwort)
Celastrus orbiculatus Thunb. (Oriental bittersweet; Asian or Asiatic bittersweet)
Cynanchum louiseae Kartesz & Gandhi (Black swallow-wort, Louise's swallow-wort)
 Synonyms: *Cynanchum nigrum* (L.) Pers. non Cav.; *Vincetoxicum nigrum* (L.) Moench
Elaeagnus umbellata Thunb. (Autumn olive)
Euonymus alatus (Thunb.) Sieb. (Winged euonymus; Burning bush)
Euphorbia esula L. (Leafy spurge; wolf's milk)
Frangula alnus P. Mill. (European buckthorn; glossy buckthorn)
 Synonyms: *Rhamnus frangula* L.; *R. frangula* var. *angustifolia*
Glaucium flavum Crantz (Sea or horned poppy; yellow hornpoppy)
Hesperis matronalis L. (Dame's rocket)
Iris pseudacorus L. (Yellow iris)
Lepidium latifolium L. (Broad-leaved pepperweed; tall pepperweed)
Lonicera japonica Thunb. (Japanese honeysuckle)
Lonicera morrowii A.Gray (Morrow's honeysuckle)
Lonicera x bella Zabel [*morrowii* x *tatarica*] (Bell's honeysuckle)
Lysimachia nummularia L. (Creeping jenny; moneywort)
Lythrum salicaria L. (Purple loosestrife)
Myriophyllum heterophyllum Michx. (Variable water-milfoil; Two-leaved water-milfoil)
Myriophyllum spicatum L. (Eurasian or European water-milfoil; spike water-milfoil)
Phalaris arundinacea L. (Reed canary-grass)
Phragmites australis (Cav.) Trin. ex Steud. subsp. *australis* (Common reed)
Polygonum cuspidatum Sieb. & Zucc. (Japanese knotweed; Japanese or Mexican Bamboo)
 Synonym: *Fallopia japonica* (Houtt.) Dcne.; *Reynoutria japonica* Houtt.
Potamogeton crispus L. (Crisped pondweed; curly pondweed)
Ranunculus ficaria L. (Lesser celandine; fig buttercup)
Rhamnus cathartica L. (Common buckthorn)

AUTHENTICATION

Upon due notice and hearing, we the undersigned, Planning Board of the Town of Wellfleet, Massachusetts, do this day 16 of DECEMBER 2009, adopt the foregoing *Rules & Regulations Governing the Subdivision of Land*.

Barbara E. Gray, Chair

Barbara Gray
Griswold Draz

Griswold Draz

Ronald Harper

Olga Kahn

Olga Kahn

Gerald Parent

Gerald Parent

Alfred Pickard

Alfred Pickard

Janet Reinhart

Janet Reinhart