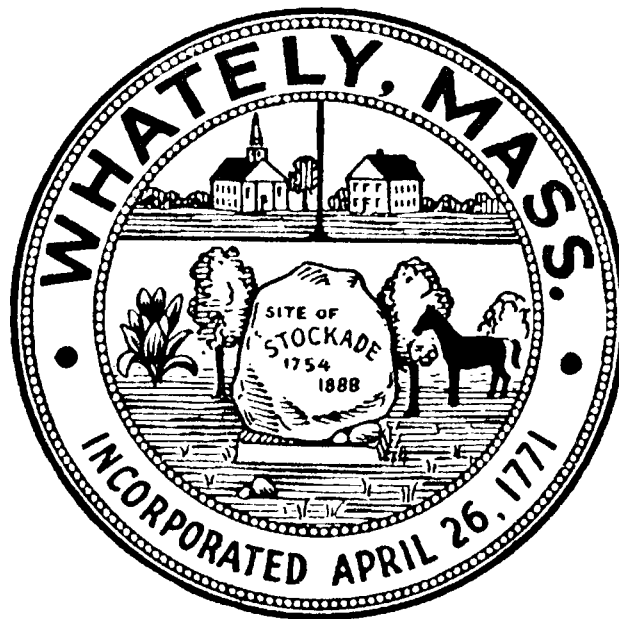


TOWN OF WHATELY

SUBDIVISION

REGULATIONS



Amended by Planning Board 9/23/03 and 11/2/22

SUBDIVISION OF LAND

Chapter 234

SUBDIVISION OF LAND

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[HISTORY: Adopted by the Planning Board of the Town of Whately. Printed as last amended 1982. Subsequent amendments noted where applicable.]

GENERAL REFERENCES

**Planning Board – See Ch. 38.
Zoning – See Ch. 171.
Building construction – See Ch. 179.**

**ARTICLE I
Authority and Purpose**

§ 234-1. Statutory authority.

Under the authority vested in the Planning Board of the Town of Whately by MGL C. 41 § 81-Q, as amended, and by all subsequent amendments thereto, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Whately.

§ 234-2. Purpose.

- A. These Subdivision Regulations for the Town of Whately have been enacted for the purpose of protecting the environment, and the safety, convenience and welfare of the inhabitants of Whately by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein but which have not become public ways and by ensuring sanitary conditions in the subdivisions and, in proper cases, parks and open areas. The powers of the Planning Board and of the

Board of Appeals under these regulations shall be exercised with due regard for:

- (1) The provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel.
- (2) Minimizing congestion in such ways and in the adjacent public ways.
- (3) Reducing danger to life and limb in the operation of motor vehicles.
- (4) Securing safety in the case of fire, flood, panic, and other emergencies.
- (5) Ensuring compliance with the applicable zoning bylaws of Whately.
- (6) Securing adequate provision for water, sewerage, drainage, underground utility service, streetlighting, police, fire and other requirements, where necessary, in a subdivision.
- (7) Coordinating the ways in a subdivision with each other, with the public ways in the Town of Whately and with the ways in neighboring subdivisions.

- B. It is the intent of the Subdivision Control Law that any subdivision plan filed with the Planning Board shall receive the approval of said Board if said plan conforms to the recommendation of the Board of Health and to the reasonable rules and regulations of the Planning Board pertaining to subdivisions of land; provided, however, that such board may, when appropriate, waive, as provided for in MGL C. 41, § 81-R, such provisions of the rules and regulations as deemed advisable (MGL C. 41, § 81-M).

ARTICLE II

Definitions

§ 234-3. Terms defined.

For the purpose of these rules and regulations, unless a contrary intention clearly appears, the terms and words defined in MGL C. 41, § 81-L, shall have the meanings given therein. The following other terms and words shall have the following meanings:

APPLICANT – The person or persons who apply for approval of a proposed subdivision plan. The “applicant” or “applicants” must be the owner or owners

of all the land included in the proposed subdivision. An agent, representative or his assign may act for an owner, provided that written evidence of such fact is submitted. Evidence, in the form of a list of its officers and the designated authority to sign legal documents, shall be required for a corporation.

BOARD – The Planning Board of the Town of Whately.

DEAD-END STREET (CUL-DE-SAC) – A street which joins another street at only one (1) end.

ENGINEER – A registered civil engineer.

LOT – An area of land under a single ownership, with specific boundaries, to be used as the site of one (1) or more buildings.

MAJOR STREET – A street which, in the opinion of the Planning Board, is likely to carry substantial volumes of through traffic or one abutting a significant commercial or industrial development.

OWNER – The owner of record as shown at the Franklin County Registry of Deeds or Land Court.

SECONDARY STREET – A street which serves to connect minor streets with major streets.

SUBDIVISION:

- A. The division of a tract of land into two (2) or more lots and shall include resubdivision and, when appropriate to the context, shall relate to the process of subdivision of the land or territory subdivided; provided, however, that the division of a tract of land in two (2) or more lots shall not be deemed to constitute a “subdivision” within the meaning of the Subdivision Control Law if, at the time when it was made, every lot within the tract so divided has frontage on:
 - (1) A public way.
 - (2) A way shown on a plan heretofore approved and endorsed in accordance with the Subdivision Control Law; or
 - (3) A way in existence when the Subdivision Control Law became effective in the Town of Whately having, in the opinion of the Planning Board, sufficient 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 (*see Section 234-5E*).

- B. Such frontage shall be of at least such distance as is then required by zoning or other ordinances for the erection of a building on such lot. Conveyances or other instruments adding to, taking away from or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth or the division of a tract of land in which two (2) or more buildings were standing when the Subdivision Control Law went into effect in the Town of Whately into separate lots on each of which one (1) such building remains standing shall not constitute a “subdivision.”

SUBDIVISION CONTROL LAW – Refers to MGL C. 41 §§ 81-K to 81GG, titled “Subdivision Control,” as last amended.

SURVEYOR – A registered land surveyor.

ZONING – The Town of Whately Zoning Bylaw¹. No subdivision rule may affect the size, shape, width, frontage or use of lots. All subdivisions will fully comply with the Town Zoning Bylaw.

ARTICLE III General Regulations

§ 234-4. Limit of one dwelling unit per lot.

Not more than one (1) building designed or available for use for dwelling purposes shall be erected and placed or converted to use as such on any lot in the Town of Whately without the consent of the Planning Board. Such consent may be conditional upon the provision of adequate ways furnishing access to each site for such building in the same manner as otherwise required for lots within a subdivision.

§ 234-5. Plan believed not to require approval. [amended 11/29/22]

- A. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that their plan does not show a “subdivision” as defined in G.L. c. 41 section 81L and in Article I of these Regulations may submit their plan and application (use Form A) to the Planning Board or to the Town Clerk, accompanied by the necessary evidence to show that the plan does not require approval, and a filing fee of \$50. Four (4) paper copies of said plan and one digital version of the plan shall be provided. Said plan shall be prepared by an engineer or surveyor. Plans submitted for a determination that approval under the Subdivision Control Law is not required, shall be delivered to the Planning Board at a meeting of

¹ Editor’s Note: See Ch. 171, Zoning

said Board, or shall be sent by registered mail to the Planning Board, postage prepaid. If so mailed, the date of receipt by the Planning Board shall be the date of submission of the plan.

- B. The applicant shall provide written notice to the Town Clerk of such filing, together with a copy of the application form. Such notice shall be given by delivery or sent by registered mail and shall describe the land to which the plan relates, sufficient for identification and shall state the date on which such plan was submitted to the Planning Board, and shall include the name and address of the owner(s) of the subject land.
- C. Any request for an Approval Not Required (ANR) designation shall be accompanied by a statement from the applicant certifying that the property is not under an Agricultural Preservation Restriction (APR). No proposal for an ANR lot on an APR property will be considered unless a "subdivision" waiver has been granted by the Massachusetts Department of Agricultural Resources.
- D. A plan submitted under §234-5 shall be prepared in accordance with the applicable requirements of the Franklin County Registry of Deeds, and shall, at a minimum, show the following information:
 - (1) The name(s) of the record owner(s) of the subject land, and the names of the owners of all adjacent land as determined from the most recent tax records of the Town;
 - (2) The location of all existing buildings on the subject land;
 - (3) The location of all easements and rights of way located on or serving the subject land;
 - (4) The existing and proposed boundaries of the subject land and of each parcel and lot created or altered by the plan;
 - (5) The zoning classification of the subject land;
 - (6) A locus plan at a scale of 1" = 100 feet, showing the subject land in relation to the nearest intersecting street(s);
 - (7) The locations, widths, and names of all abutting ways;
 - (8) A notation reading:

Endorsement of this Plan does not certify
compliance with zoning.

E. Frontage on Ways in Existence - In determining whether an existing way or a way in existence in 1962, when the Subdivision Control Law came into effect in Whately, is adequate frontage to qualify a plan as not a subdivision, the Board will consider the following:

- (1) Is the right-of-way at least 33 feet wide and of reasonable horizontal alignment?
- (2) Does the existing horizontal and vertical alignment of the roadway provide safe visibility?
- (3) Is the roadway constructed at least sixteen (16) feet wide, with at least 18" of gravel, and with adequate provisions for drainage?
- (4) If the road could ever service more than ten dwelling units, is it bituminous surfaced or have provisions been made for such surfacing without cost to the town?
- (5) Have provisions been made for public utilities without cost to the town?
- (6) Is the grade less than or equal to 10%?

The Board will not normally find a way in existence when the subdivision control law became effective in Whately to provide adequate frontage unless it meets the above standards, provided, however, that the Board may waive strict compliance with these standards upon its determination, following consultation with the Selectmen, Superintendent of Streets, Police Chief and Fire Chief, that the way will, in fact, be adequate to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for installation of municipal services to serve such land and the buildings erected or to be erected thereon.

F. Frontage on a Public Way - When the lots shown on a plan presented for endorsement under §234-5 are claimed to have frontage on a public way, the way must physically exist on the ground and must provide safe and viable access to the proposed lots. Additionally, the Planning Board may require documentation evidencing the layout and acceptance of the way as a public way.

G. Adequacy of Access - In addition to determining that all lots shown on a plan presented for endorsement under §234-5 have the required frontage on one of the three types of ways specified in G.L. c. 41, §81L, before endorsing a plan as "Planning Board approval under the Subdivision Control Law not required," the Planning Board must also determine that each lot shown on the plan has practical

access from the way upon which the lot fronts, in that there are no legal or physical impediments which prevent present adequate access to the lot.

- H. Time Limit – Pursuant to G.L. c. 41, §81P, if the Board fails to act upon a plan submitted under §234-5, or fails to notify the Town clerk and the applicant of its action within twenty-one (21) days after the plan submission, the Board shall be deemed to have determined that approval under the Subdivision Control Law is not required, and shall forthwith make such endorsement on the plan. If the Board fails to make such endorsement, the Town Clerk shall issue a certificate to the same effect.
- I. If the Board determines that the plan does not require approval, it shall forthwith, in a formal or informal hearing and without a public hearing, endorse on the plan the words “Planning Board approval under the Subdivision Control Law not required.” The Board shall then sign said endorsement. Said plan shall then be returned to the applicant, and the Board shall notify the Town Clerk of its action. The applicant shall provide the Board with two (2) copies of the endorsed print.
- J. If it deems necessary, the Planning Board shall have the plan reviewed by an engineer before making a determination. The cost shall be borne by the applicant.

§ 234-6. Planning Board approval required for subdivision.

No person shall make a subdivision, within the meaning of the Subdivision Control Law, of any land within the town or proceed with the improvement or sale of lots in a subdivision or the construction of 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.

§ 234-6.1. Access Adequacy. {Added 4-15-87}

- A. General. Plans shall be endorsed as not requiring approval under the Subdivision Control Law, and subdivision plans shall be approved only if each building lot to be created by such plan has adequate access as intended under the Subdivision Control Law, MGL C. 41, § 81-K through 81-GG.
- B. Standards of Adequacy. Streets within a subdivision shall be considered to provide adequate access if, and only if, complying with the standards established in this regulation. Ways providing access to streets within a subdivision shall normally be considered to provide adequate access only if there is assurance that, prior to construction on any lots, access to the subdivision will be in compliance with the right-of-way width, pavement width, maximum grade and sight distance requirements of this regulation as applicable to ways within a subdivision.

- C. **Obligations.** The Board may require as a condition of its approval of a subdivision plan, that the developer dedicate or acquire and dedicate a strip of land for the purpose of widening accessways to a width as required above and that he either make physical improvements within such way or compensate the town for the cost of such improvements in order to meet the standards specified above.
- D. **Waivers.** The Board may waive strict compliance with these access requirements only upon its determination, following consultation with the Selectmen, Superintendent of Streets, Police Chief and Fire Chief, and that the way in fact will be sufficient to serve the needs for access to serve potential uses of land abutting on or served by the way in question.
- E. **Frontage on Approved Subdivision Ways.** A way shown on an approved subdivision plan will be considered as frontage for purposes of §81L only if either:
 - (a) the way and any associated municipal services are fully constructed in accordance with the Planning Board's approval of such Subdivision plan, or
 - (b) such construction has been adequately secured in accordance with G.L. c. 41, §81U.

ARTICLE IV

Procedure for Submission and Review of Plans

§ 234-7. Presubmission review.

Prior to investing in extensive professional design efforts for subdivision plans, it may be beneficial for the prospective applicant to discuss his ideas with the Planning Board. It may be useful in avoiding problems at a later stage of the subdivision review process. Pencil sketches of the prospective subdivision will be helpful in the discussion.

§ 234-8. General preliminary plan requirements.

- A. A preliminary plan of a subdivision may be submitted by the subdivider to the Planning Board and to the Board of Health for discussion and tentative approval, modification or disapproval by each Board. However, in the case of a nonresidential subdivision, a preliminary plan must be filed. The submission of such a 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 shall be filed with the preliminary plan submitted to the Planning Board.

B. Filing procedure.

- (1) Any person who submits a preliminary plan shall do so by delivery to the Planning Board at a meeting of said Board or by certified or registered mail to the Planning Board c/o the Town Clerk. Receipt of such plan by the Planning Board or Town Clerk shall constitute the date of submission. Such plan shall be accompanied by the completed Form B and a filing fee of three hundred dollars (\$300) plus \$50.00 per lot in the form of a certified check or money order made payable to the Town of Whately.
- (2) The applicant shall file the original drawing(s) or suitable reproducible(s) and four (4) copies with the Planning Board and two (2) copies with the Board of Health.

C. Contents. The preliminary plan shall be drawn at a scale of one (1) inch to forty (40) feet on a sheet of paper twenty-four by thirty-six (24 x 36) inches. The plan shall include the following:

- (1) The subdivision name, boundaries, true North arrow, date, scale, legend and title "preliminary plan."
- (2) The names and addresses of the owners of record, the applicant and the engineer or surveyor.
- (3) The names of all abutters, as determined from the most recent tax list.
- (4) Existing and proposed lines of streets, ways, easements and any public or common areas within the subdivision, in a general manner.
- (5) The proposed system of drainage, including adjacent existing natural waterways, in a general manner.
- (6) The proposed sanitary sewer system and water distribution system, in a general manner.
- (7) The approximate boundary lines proposed, with approximate areas and dimensions.
- (8) The names, approximate locations and widths of adjacent streets.
- (9) The topography of the land, in a general manner.

- (10) An index plan at a scale of one (1) inch equals two hundred (200) feet, when multiple sheets are used.
- (11) A key plan at a scale of one (1) inch equals one thousand (1,000) feet.
- (12) Initial findings, in a general way, of the environmental impact analysis required within the definitive plan.
- (13) In the case of a subdivision covering less than all of the land owned by the subdivider, a plan showing, in a general manner, the proposed overall development of all said land.

D. Action by the Board

- (1) Within forty-five (45) days of submission of the preliminary plan, the Board shall act to:
 - (a) Approve the plan as presented;
 - (b) Approve the plan with modifications; or
 - (c) Disapprove the plan.
- (2) In the case of disapproval, the reasons why shall be stated. Approval of the plan does not constitute the approval of a subdivision, and no Register of Deeds shall record a preliminary plan.

§ 234-9. Definitive Plan.

A. General.

- (1) A definitive plan shall be governed by the Subdivisions Regulation in effect at the time of submission of such plan or in effect at the time of submission of a Preliminary Plan, provided that a definitive plan evolved therefrom shall have been submitted to the Planning Board within seven (7) months from the date of submission of the Preliminary Plan.
- (2) A definitive plan shall also be governed by the zoning bylaws in effect at the time of submission of such plan or a preliminary plan from which a definitive plan is evolved, in accordance with the provisions of MGL C. 40A, § 6, as amended.

B. Filing procedure.

- (1) Any person submitting a definitive plan of a subdivision shall do so by delivery to the Planning Board at a meeting of said Board and shall give written notice to the Town Clerk by delivery or by registered or certified mail. Receipt of such plan by the Planning Board or Town Clerk shall constitute the date of submission.
- (2) The applicant shall file with the Planning Board the following:
 - (a) An original reproducible drawing of the definitive plan and three (3) contact prints thereof, plus one (1) contact print with the Board of Health. The original drawing will be returned to the applicant after a decision on the plan by the Board.
 - (b) Two (2) properly executed applications (Form C), one (1) to the Planning Board and one (1) to the Board of Health.
 - (c) A filing fee of five hundred dollars (\$500) per plan plus seventy-five dollars (\$75) per lot shown on the Definitive Subdivision Plan if a Preliminary Plan has been filed. If no Preliminary Plan has been filed then the filing fee shall be five hundred dollars (\$500) per plan plus two hundred (\$200) per lot shown on the Definitive Subdivision Plan. The filing fee shall be in the form of a certified check or money order made payable to the Town of Whately. Any additional expenses for professional assistance related to the application including the review of the plans, survey or inspections shall also be paid by the applicant.
 - (d) A certified list of abutters (Form D).

C. Contents.

- (1) The definitive plan shall be prepared by a registered civil engineer and/or registered land surveyor. It shall be clearly and legibly drawn in black ink upon paper or Mylar. The plan shall be at a scale of one (1) inch to forty (40) feet, unless otherwise specified by the Planning board. Sheet size shall not exceed twenty-four by thirty-six (24 x 36) inches. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The data required below may be on separate sheets as is necessary.
- (2) The definitive plan shall have the following information:

- (a) The subdivision name, boundaries, true North arrow, date, scale, legend and bench mark. All elevations shall be to the United States Geological Survey bench marks if within five hundred (500) feet of the subdivision.
- (b) The names and addresses of the owners of record, the applicant, the engineer and/or surveyor and/or their official seals.
- (c) The names of all abutters, as determined from the most recent tax list.
- (d) Existing and proposed lines of streets, rights-of-way, easements and public or common areas within the subdivision. Proposed names of new streets shall be shown in pencil until they have been approved by the Planning Board.
- (e) The location, names and present widths of street(s) bounding, approaching or within reasonable proximity of the subdivision.
- (f) Zoning districts of all the areas shown on the plan.
- (g) A key plan showing the location of the subdivision at a scale of one (1) inch equals one thousand (1,000) feet and an index plan at a scale of one (1) inch equals two hundred (200) feet or at a scale matching that used on the Assessor's maps.
- (h) Existing (solid line) and proposed (broken line) topography at two-foot contour intervals, including the finished grade of all lots.
- (i) Lot numbers and areas of lots.
- (j) The location of all natural waterways and water bodies within and adjacent to the subdivision.
- (k) The location of significant site features, such as existing stone walls, fences, buildings, large trees exceeding ten inches diameter at breast height, floodplains and rock outcroppings.

- (l) The locations of all permanent monuments, properly identified as to whether proposed or existing.
- (m) The location and results of all percolation tests to evaluate subsurface conditions for each lot in the prospective subdivision. The tests will be done in accordance with the State Sanitary Code.
- (n) The size and location of existing and proposed water supply facilities.
- (o) Sufficient data, including the length, bearings, radii and central angle, to determine the exact location, direction and length of every street, way, lot line and boundary line and to establish these lines on the ground. If the proposed subdivision is within five hundred (500) feet of a monument of the Massachusetts coordinate mapping system, it shall be tied into said system.
- (p) Profiles shall be prepared as follows:
 - [1] A horizontal scale of one (1) inch equals forty (40) feet shall be used.
 - [2] A vertical scale of one (1) inch equals four (4) feet shall be used.
 - [3] The existing grade of the road center line shall be drawn in a fine black solid line.
 - [4] The existing right side line shall be drawn in a fine black dotted line.
 - [5] The existing left side line shall be drawn in a fine black dashed line.
 - [6] All elevations shall refer to the United States Coast and Geodetic Survey bench marks if within five (500) feet of the proposed subdivision.
 - [7] Proposed roadway center-line grades shall be drawn in heavy red lines with precise elevations at points of vertical tangency, points of vertical contact high point and low point.

- [8] Rates of roadway gradient shall be shown in percentage.
- [9] The size, location and rates of gradient of proposed stormwater drains, sewer lines, catch basins and manholes, as well as required new waterways and sizes of all pipes shall be shown.
- [10] The invert and rim elevations of each manhole or catch basin shall be shown.
- [11] As long as the work is related to the proposed subdivision, profiles shall be shown, even if the new work is outside said subdivision.
- [12] Water mains will be shown in profile to demonstrate sufficient clearance of other structures.
- [13] The size and location of all other utilities to be placed in the right-of-way shall be shown. These shall be placed so as to minimize flood damage.
- [14] The location of any intersected public or private way shall be shown.
- (q) Cross sections shall include street sections showing paving, crown, berm, shoulder and distance to the right-of-way line, as well as cross sections for any drainage trench.
- (r) Suitable space to record the action of the Board and signatures of Board members.
- (s) Any other information that the Board may deem necessary.

D. Environmental impact report.

- (1) In order to more fully ensure the health, safety and welfare of the Town of Whately and its inhabitants, all prospective subdivisions of ten (10) or more lots and/or ten (10) acres in size shall be required to submit a detailed environmental impact report. Further, the Board may require said report or portions of it for smaller subdivisions where the information contained in such a report would be necessary to evaluate the prospective

subdivision's impact upon a particular piece of land. The report would include the following:

- (a) A description of the topography, geology and soil characteristics of the proposed subdivision and contiguous area and an analysis of the natural land features to sustain the proposed development; an analysis of stormwater runoff, soil erosion and other potential land capability effects of the proposed subdivision; and a description of the measures planned to protect the natural land features against potential deterioration resulting from the proposed subdivision.
- (b) Identification of surface and subsurface water features within the proposed subdivision, as well as those water features potentially affected by it, including underground aquifers, brooks, streams, rivers, lakes and wetlands, and a description of the measures planned to protect those surface and subsurface features against potential deterioration resulting from the proposed subdivision.
- (c) A description of special physical conditions existing within the proposed subdivision, (e.g., floodplains, unique landscape features, etc.) and a description of the measures to accommodate these special conditions.
- (d) An analysis of airborne emissions to be generated by the proposed subdivision or incident to it, in relation to state and federal air pollution standards, as well as nearby off-site emission sources potentially affecting air quality of the proposed subdivision.
- (e) Identification of any existing or potential on- or off- site sources of noise which might significantly inhibit speech or sleep [above fifty (50) dBA] and a description of the measures to alleviate the problem.
- (f) Identification of any notable aesthetic characteristics on or near the proposed subdivision, including features of historical, architectural, archaeological or scenic interest and a description of the measures designed to protect these aesthetic features.

- (2) A biotic study.
 - (a) A description of the biotic community, listing types of vegetation and animals found within the proposed subdivision and contiguous area.
 - (b) Identification of any rare or endangered species potentially affected by the proposed subdivision, a description of any potential disruption of wildlife habitat which may result from the proposed subdivision and the methods to be taken to limit the loss of wildlife habitat.
- (3) A land use study.
 - (a) An analysis of land use within the proposed subdivision in relation to surrounding land uses and especially as it affects any loss of farmland or decrease in farm production.
 - (b) An assessment of the economic impact of the proposed subdivision upon education (the number of additional children in the school system), the demand for municipal services and facilities (water, sewage treatment, solid waste management, road maintenance, fire and police protection and recreation), traffic, utilities and streetlights.
- E. Review by the Board of Health. At the time of the filing of the definitive plan with the Planning Board, two (2) copies shall also be filed with the Board of Health. The Board of Health shall report, in writing, to the Planning Board and subdivider its approval or disapproval of said Plan. In the event of disapproval, it shall make specific findings as to which, if any, of the lots shown on said plan cannot be used as building sites without injury to the public health. The Board of Health shall include specific findings and the reasons therefor in such report, and, where possible, it shall make recommendations for adjustments necessary for the plan's approval. Any approval by the Planning Board shall be on the condition that lots deemed injurious to the public health shall not be built upon without prior consent of the Board of Health. The Planning Board shall endorse on the plan such conditions, specifying the lots to which said conditions apply. Failure by the Board of Health to report on the proposed subdivision within forty-five (45) days after the filing of the plan shall be deemed approval of the plan by the Board of Health.
- F. Compliance with the Wetlands Protection Act. In accordance with MGL C. 131, § 40, no person shall remove, fill, dredge or alter any

watercourse, pond, floodplain or wetland without filing written intention to perform said work with the Local Conservation Commission and with the Commonwealth Department of Environmental Protection. Permission for such work must be obtained from the Conservation Commission.

G. Public hearing.

- (1) Before approval, modification, or disapproval of the definitive plan is given, a public hearing shall be held by the Board. Said public hearing shall be held after the Board of Health makes its report or after the forty-five day period to report expires. Notice of the specific time and place shall be given by the Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of Whately once in each of two (2) successive weeks, the first publication being not less than fourteen (14) days before the date of such hearing. A copy of the definitive plan shall be available to the public through the Town Clerk's office not less than fourteen (14) days before the date of the public hearing.

- (2) A copy of said notice of public hearing shall be mailed by the Board, by registered or certified mail, to all owners of land abutting the proposed subdivision and to the abutters of the abutters within three hundred (300) feet of the site. The Planning Board shall also send notice of a public hearing to the following: the Board of Selectmen, the Board of Health, the Conservation Commission, the Fire Department, the Superintendent of Schools, the Building Commissioner and the Highway Department. The expense of these notifications shall be borne by the applicant.

H. Approval, modification or disapproval. After the required public hearing but within ninety days (90) days from the date of submission, in the case of a subdivision where a preliminary plan has been filed, the Planning Board shall take final action upon the definitive plan. It shall approve the plan as submitted, approve the plan with modifications, or disapprove the plan. If the Board modifies or disapproves the plan, it shall state with its vote reasons for its action. In the case of a subdivision plan where no preliminary plan has been submitted, the Planning Board shall take final action within one hundred and thirty-five (135) days from the date of submission.

I. Performance guaranty. Before endorsement of the Board's approval upon a definitive plan of a subdivision, the applicant shall agree to complete the required improvements specified in Article VI of these rules and regulations for all lots within the subdivision within a specified

period of time. Such construction and installation shall be secured by one, or in part by one and in part by another, of the following methods:

- (i) by a proper 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 the lots and the Planning Board shall require that the applicant specify the time frame within which such construction shall be completed;
- (ii) 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 services required for the lots and the Planning Board shall require that the applicant specify the time frame within which such construction shall be completed;
- (iii) by a covenant executed and duly recorded by the owner of record and 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 and the Planning Board shall require that the applicant specify the time frame within which such construction shall be completed; or
- (iv) by an agreement between the applicant and the lender executed after the recording of the 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 provide for the retention by the lender of funds sufficient in the opinion of the Planning Board to secure the construction of ways and installation of municipal services and the Planning Board shall require that the applicant specify the time frame within which such construction shall be completed. The Board may grant partial release from such security for partial completion of improvements, provided that the completed portion provides a reasonable system for circulation and utilities pending completion of the rest. Full security shall not be released until the integrity of road pavement and drainage has been verified following a full winter of use, until trees and other vegetation have been established, until either the way has been duly laid out and accepted as a public way or other provisions for their continued maintenance have been accepted by the Board and until the record (“as built”) plans have been received.

J. Endorsement.

- (1) Upon approval of the definitive plan, a majority of the Board shall endorse it. This shall be done following the twenty-day statutory appeals periods, provided that the Town Clerk notifies the Board that no appeal has been filed within this period. After the approved definitive plan has been endorsed, the applicant shall file with the Board one (1) reproducible copy and three (3) contact prints of said definitive plan.
- (2) Approval of the definitive plan does not constitute the laying out or acceptance by the Town of Whately of streets or easements within a subdivision.
- (3) A failure by the applicant to request endorsement of the plan or failure by the applicant to provide an adequate performance guaranty within six months of the Planning Board's vote of approval shall be deemed to be a denial of the plan.

K. Evidence of performance and release of performance guaranty.

- (1) Requirements. Before the Board shall fully release the interest of the Town in a performance bond, deposit or covenant, the Board shall require the following:
 - (a) Written evidence from a registered civil engineer of the Board's choosing, that the streets and drainage pattern conform to the Planning Board's requirements in accordance with the definitive plan.
 - (b) Written evidence from a registered civil engineer of the Board's choosing that the water mains, sanitary sewers, storm sewers and hydrants conform to specifications and the Board's requirements in accordance with the approved definitive plan.
 - (c) Written evidence, from a registered land surveyor of the Board's choosing, that all permanent bounds and monuments on all street lines and on the lot or lots within the subdivision are in place and are accurately located in accordance with the approved definitive plan.
 - (d) Written evidence from a registered civil engineer of the Board's choosing that the streets and drainage system

shall have been in use through one (1) full winter and shall have performed as designed.

- (e) All fees to cover inspection for release of the performance guaranty have been paid by the applicant.
- (2) Upon completion of all said improvements and satisfaction of the above requirements, the applicant shall notify the Board and the Town Clerk, by delivery or by registered or certified mail, requesting release from the performance guaranty. The Board shall act on such request within forty-five (45) days (Form G).
- L. Recording of the plan. Within ten (10) days after the definitive plan, as approved and endorsed, has been recorded at the Franklin County Registry of Deeds and, in the case of registered land, with the recorder of the Land Court, the applicant shall notify the Board, in writing, of such recording, noting book, page number and date of recording.
- M. Recording of the plan. Failure of the applicant to record the definitive plan at the Franklin County Registry of Deeds within six (6) months of its endorsement or to comply with the construction schedule of the performance agreement shall constitute sufficient cause for rescission of such approval, in accordance with the requirements of MGL C. 41 § 81-W, as amended.

§ 234.10. Subdivision standards in the Floodplain District.

All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. If any part of a subdivision proposal or other new development is located within the Floodplain District established under the Zoning Bylaw,² it shall be reviewed to assure compliance with the Town of Whately Zoning Bylaw and the following:

- A. The proposed subdivision design is consistent with the need to minimize flood damage.
- B. All public and private utilities and facilities, such as sewer, gas, electrical and water systems, shall be located and constructed to minimize or eliminate flood damage.
- C. Adequate drainage systems shall be provided to reduce exposure to flood hazards.

² Editor's Note: See Ch. 171, Zoning.

- D. Base flood elevation (the level of the one-hundred-year flood) data shall be provided for proposals greater than five (5) lots or five (5) acres, whichever is the lesser, for that portion within the Floodplain District.

ARTICLE V
Design Standards

§ 234-11. Streets.

A. Location.

- (1) All streets in the subdivision shall be designed so that 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. Common driveways shall not be used to provide vehicular access to lots within a subdivision if, in the opinion of the Planning Board, they are being used to circumvent the requirements of these Subdivision Regulations.
- (2) The design and layout of the proposed subdivision shall conform, so far as is practicable, to the Development Guidelines contained in Appendix A and to the Town Master Plan, in whole or in part, as adopted by the Planning Board.
- (3) Provision shall be made, which is satisfactory to the Planning Board, for the proper projection of streets or for access to adjoining property which is not yet subdivided or developed.
- (4) Reserve strips prohibiting access to streets or to adjoining property shall not be permitted.
- (5) In those instances where the Board deems it necessary, sidewalks, grass strips and curbing shall be required.
- (6) Dead-end streets (cul-de-sac) shall be permitted as minor streets only. Dead-end streets shall not be longer than five hundred (500) feet unless, in the opinion of the Planning Board, a greater length is necessitated. Dead-end streets shall be provided at the closed end with a turnaround having an outside roadway diameter of at least one hundred twenty-five (125) feet and a property line diameter of at least one hundred forty (140) feet.

B. Alignment.

- (1) Streets shall be laid out so as to intersect, as near as possible, at right angles. No street shall intersect another street at less than sixty (60°).
- (2) Streets entering on opposite sides of another street shall be laid out directly opposite each other or with a minimum offset of one hundred (150) feet between their respective center lines.
- (3) Minimum center-line radii will be as follows: major street, five hundred (500) feet; secondary street, three hundred (300) feet.
- (4) Property lines at street intersections shall be cut back to provide for curb radii of not less than thirty (30) feet.
- (5) At forty-five (45) inches above the pavement, the minimum sight distances shall be as follows: major streets, three hundred fifty (350) feet; secondary streets, two hundred seventy-five (275) feet.
- (6) Street jogs with center-line offsets of less than one hundred twenty-five (125) feet should be avoided.

C. Grade. The maximum grades for streets shall be as follows: major street, six percent (6%); and secondary street, ten percent (10%). No grade shall be less than one percent (1%).

D. Width.

- (1) The minimum width of a right-of-way shall be fifty-five (55) feet. In addition, there must be at least a twenty (20) foot setback from any adjacent owner's property line to any edge of the right-of-way. Greater width shall be required by the Planning Board when deemed necessary for present and future vehicular travel.
- (2) The minimum paved width of a roadway shall be twenty-four (24) feet. Greater width shall be required by the Planning Board when deemed necessary for present and future vehicular travel or for parking.
- (3) The center line of the roadway shall coincide with the center line of the right-of-way unless otherwise requested by the Board.

E. Adequate Access from Public Ways.

- (1) Where the street system within a subdivision does not connect with or have, in the opinion of the Planning Board, adequate access from a public way, the Planning Board may require, as a condition of approval, that such adequate access be provided by the subdivider, or that the subdivider make physical improvements to and within such a way in accordance with the provision of these regulations from the boundary of the subdivision to a public way.
- (2) Where the physical condition or width of the public way from which a subdivision has its access is considered by the Planning Board to be inadequate to carry the traffic expected to be generated by such subdivision, the Planning Board may require the subdivider to dedicate a strip of land for the purpose of widening the abutting way to a width at least commensurate with that required in a subdivision, and to make physical improvements to and within such public way to the same standards required within the subdivision. Any such work performed within such public way shall be made only with the permission of the governmental agency having jurisdiction over such way, and all costs of any such widening or construction shall be borne by the subdivider.

§ 234-12. Easements.

- A. Easements for utilities shall be at the side or rear of lots wherever possible. They shall be contiguous from lot to lot. Easements shall be at least twenty (20) feet in width.
- B. Where a subdivision is bisected by or adjacent to a watercourse, either natural or man-made, the Board may require that there be a stormwater or drainage easement of at least twenty (20) feet in width to conform to the path of the watercourse and to provide for any construction related to that watercourse.
- C. The Board may require an easement for watercourses that are not within a subdivision but may be affected by it.
- D. The Board may also require an easement at any place it deems necessary to protect the health and safety of the inhabitants of Whately.

§ 234-13. Natural features.

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

§ 234-14. Open spaces.

Before approval of a plan, the Planning Board may also 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 Board may require that no building be erected upon such area until the land is either purchased by the town or is deeded in gift to the town or to a neighborhood civic association. This land may be held in said status for a period of three (3) years, at which time, if the land is not deeded or purchased, it may be included in a new subdivision proposal.

§ 234-15. Drainage.

- A. The storm drainage system shall be designed to intercept all stormwater drainage from the particular subdivision or any additional runoff that may be created by that subdivision.
- B. The Rational Method or the Soil Conservation Service Method shall be used in determining the quantity of stormwater to be carried by the system. The system shall be designed for a minimum twenty-five year- storm frequency.
- C. Wherever possible, stormwater should be directed into the nearest part of the drainage system. Where storm drainage encroaches on privately owned land, a drainage easement shall be acquired by the developer.
- D. {Reserved for future use.}
- E. Stormwater shall not be permitted to cross the surface of the roadway. It must be piped underneath.
- F. Catch basins shall be placed on both sides of the street. They shall be placed at street intersections to intercept stormwater runoff.
- G. The maximum distance between catch basins shall be three hundred (300) feet.

- H. The minimum diameter of storm drainage pipes shall be twelve (12) inches.
- I. The method of construction and the materials used in construction shall conform to the most recent MassHighway Standards and Specifications for Highways, Bridges and Waterways.
- J. No open water body or wetland shall be filled unless in compliance with the Massachusetts Wetlands Protection Act.
- K. Where a portion of a subdivision lies within an aquifer recharge area, storm drainage shall be directed, when appropriate, to retention basins in order to artificially recharge the groundwater.
- L. Leaching catch basins may be required at the option of the Board. These basins shall be at least six (6) feet deep and four (4) feet in diameter (inside measurements), constructed of concrete blocks or precast concrete units. Leaching basins shall be backfilled for at least one (1) foot around all sides with one and one-half (1 ½) inches of washed stone, topped with peastone, and shall be cross-connected with a twelve-inch equalizer drainpipe. Covers on basins shall conform to industry standards.

§ 234-16. Sewerage.

- A. If a subdivision is within five hundred (500) feet of the public sewerage system, the developer shall be required to connect all homes to that system according to the Town of Whately Construction Standards.
- B. If a subdivision is within five hundred (500) feet of a planned public sewerage system or addition to that system, the developer shall be required to install laterals, according to the Town of Whately Construction Standards, in order to connect to the planned addition in the future. This requirement shall apply if the planned addition to the public sewerage system shall have been adopted at a previous Town Meeting and has been scheduled to be built no more than five (5) years from the date of submission of a definitive plan.
- C. The minimum diameter of public sewer pipes shall be eight (8) inches. Laterals to single-family homes shall be four (4) inches. Flow velocity, when full, shall be at least two (2) feet per second but less than fifteen (15) feet per second.
- D. All sewers shall be laid with a straight vertical and horizontal alignment and a uniform slope between manholes.

- E. The maximum distance between manholes shall be three hundred (300) feet.
- F. In flood-prone areas, manhole covers shall be waterproof.
- G. Sewer pipes shall be placed deep enough to drain from residential basements and to prevent freezing. Except under special conditions, e.g., bedrock near the surface, sewer pipes shall be placed at a minimum depth of forty-eight (48) inches below finished grade.
- H. No type of storm drainage apparatus shall be connected to the sanitary sewer system.
- I. Wherever possible, sewers shall be placed at least ten (10) feet from any existing or proposed water main.
- J. Where a public sewerage system connection is not feasible, according to the above rules, a private on-site sewerage system shall be designed and constructed in conformity with Title 5 of the Sanitary Code of the Massachusetts Department of Environmental Protection and subject to the approval by and in conformity with the Town of Whately Board of Health and its rules and regulations.

§ 234-17. Water.

Private on-lot water systems shall be located and constructed in accordance with the Board of Health Regulations governing private wells in the Town of Whately and in accordance with the setback and other requirements of Title 5 for private septic systems. Such water systems shall be subject to the approval of the Town of Whately and the Whately Board of Health.

ARTICLE VI
Required Improvements for Approved Subdivisions

§ 234-18. Clearing and grubbing of right-of-way.

- A. No clearing or excavating shall be started on any part of the street until the Tree Warden has designated, in writing, those trees which are to remain in the tree belt. Such trees to be preserved shall be protected during construction by fenders or boxes, and their root systems shall be disturbed as little as possible.

- B. No matter such as stumps, trunks, limbs of trees, brush, boulders or such material shall be buried or left within the limits of the right-of-way lines.

§ 234-19. Foundation of roadway.³

A. Subbase.

- (1) Within the roadway area, including driveway aprons, sidewalks and grass strips, all material shall be removed to subgrade, and any unsuitable material below subgrade, in the opinion of the town-appointed engineer, shall be removed and shall be replaced with proper bankrun gravel and brought to proper compaction. The depth of the subgrade will be governed by existing conditions and shall be as specified by the town-appointed engineer.
- (2) Where fill is required, it shall be placed in uniform lift layers not deeper than eight (8) inches and shall be spread uniformly with the large stones at the bottom.
- (3) Any gravel used as fill in the subbase shall be composed of hard, durable stone and coarse sand, practically free from loam and clay and containing no stone having a dimension greater than six (6) inches, and, when spread and compacted, shall present a stable foundation.
- (4) Each layer shall be thoroughly compacted to the proper density, and rolling shall continue until a firm, even surface true to line and grade is achieved. Any depressions shall be filled and rerolled, and any soft or unsuitable areas shall be removed and replaced with suitable material and rolled.
- (5) The subgrade shall be shaped and finish graded at the required depth below and parallel to the proposed pavement surface, in conformance with the typical street cross section.⁴
- (6) Inspections shall be required after completion of the subgrade. (See § 234-31.)

B. Gravel base.

- (1) The gravel base course shall consist on not less that eighteen (18) inches of well-compacted gravel placed upon the subgrade, for

³ Editor's Note: The diagram which was attached to these regulations and which illustrated the intent of this section is on file in the office of the Town Clerk.

⁴ Editor's Note: The typical street cross section is on file in the office of the Town Clerk.

the entire width of the roadway, in layers not greater than six (6) inches deep.

- (2) When spreading the gravel, care should be taken to rake forward and distribute the largest stones so they will be at the bottom of the gravel base course and evenly distributed.
- (3) Each layer shall be thoroughly compacted to the proper density, and rolling shall continue until a firm, even surface true to line and grade is achieved. Any depression that appears during or after rolling shall be filled with gravel and rerolled.
- (4) The gravel used in the base course shall conform to the specifications of the subgrade [Subsection 234-19.A.(3)], except that it shall contain no stones having a dimension greater than four (4) inches.
- (5) The gravel base surface shall be shaped and finish graded at the required depth below and parallel to the proposed pavement surface, in conformance with the typical street cross section.
- (6) Inspections shall be required before commencement and after completion of the gravel base (See § 234-31.)

§ 234-20. Surfacing of roadway.

- A. The roadway and driveway aprons shall be paved the entire width, including under the berms, and the surface treatment shall be compacted bituminous concrete placed in two (2) layers.
- B. The first layer or binder course shall be Class I bituminous concrete pavement, Type I-1, binder course mix, laid at a thickness of two (2) inches, in accordance with Section 460 of MassHighway's Standard Specifications for Highways, Bridges and Waterways, latest edition.
- C. The second layer or surface course shall be Class I bituminous concrete pavement, Type I-1, top course mix, laid at a thickness of one (1) inch, in accordance with Section 460 of MassHighway's Standard Specifications for Highways, Bridges and Waterways, latest edition.
- D. The plant mix material shall be delivered to the site in a hot and easily workable condition when weather conditions are satisfactory so that it can be properly placed on the appropriate base. Irregularities in the existing foundation material shall be eliminated by the use of extra bituminous material.

- E. All bituminous concrete shall be spread by an approved mechanical spreader in a uniformly loose layer to the full width required and to such thickness that each course, when compacted, shall have the required thickness and shall conform to grade and the typical street cross section. Hand spreading of bituminous concrete material will be allowed only for special areas which do not permit mechanical spreading and finishing.
- F. Each course of bituminous material shall be rolled with a self-propelled, equally balanced, tandem roller weighing not less than five (5) nor more than ten (10) tons. Places inaccessible to the power roller shall be compacted by means of hand or vibratory tampers. Any displacement caused by the roller shall be corrected by raking and adding fresh mixture where required.
- G. Traverse joints shall be formed by laying and rolling against a form of the thickness of the compacted mixture placed across the entire width of the pavement. When the laying of the mixture is resumed, the exposed edge of the joint shall be painted with a thin coat of hot asphalt or asphalt cement thinned with naphtha. The fresh mixture shall be raked against the joint and thoroughly tamped with hot tampers and rolled.
- H. The final bituminous surface shall show no deviation greater than one-fourth (1/4) inch when tested with a sixteen-foot straightedge placed parallel to the center line of the surface course.
- I. Finished roadway and driveway apron surfaces less than the required thickness or containing any soft or imperfect places will not be approved.
- J. All roadways shall be brought up to the finish grade as shown on the definitive plan, and all manhole covers, gate boxes, gas drips and other access to underground utilities shall be set flush with the surface of the road, grass strip or sidewalk.
- K. Inspections shall be required upon completion of the binder and surface courses. (See § 234-31.)

§ 234-21. Curbs and berms.

Curbs and berms shall be constructed along both sides of major and secondary roads but are not required along minor streets. Their construction shall meet requirements set forth by MassHighway in its latest volume of Standard Specifications for Highways and Bridges.

§ 234-22. Sidewalks.

- A. Sidewalk of not less than five (5) feet in width shall be constructed on one (1) or both sides of the street starting at the property line when, in the opinion of the Board, such sidewalks are necessary.
- B. Sidewalk construction shall meet requirements set forth by MassHighway in its latest volume of Standard Specifications for Highways and Bridges.

§ 234-23. Grass strips.

All cleared areas of a right-of-way not to be planted with ground-cover plantings, including all disturbed areas over all culverts in drainage easements, shall be loamed with not less than six (6) inches' compacted depth of good quality loam and seeded with lawn grass seed. Seeding shall be done at appropriate times of the year and in a manner to ensure growth of grass. No utility poles, transformers, signs or similar items shall be placed within the grass plot within three (3) feet of the edge of the pavement.

§ 234-24. Street signs.

Street name signs of a design conforming to the type in general use in the town shall be furnished, set in concrete and erected at all street intersections prior to the occupancy of any house on the street. Signs may be purchased from the Town of Whately Highway Department.

§ 234-25. Streetlighting.

Streetlighting shall be installed along any street the Board deems appropriate. Light standards to be used shall be subject to the approval of the Planning Board and, when used, be spaced no less than every five hundred (500) feet. Streetlighting shall be designed to avoid unnecessary glare or light pollution.

§ 234-26. Monuments and markers.

- A. Monuments shall be installed at all street intersections and at all points where, in the opinion of the Board, permanent monuments are necessary. Such monuments shall conform to the standard specifications of the Superintendent of Highways and shall be set according to such specifications.

- B. Iron rods or other markers suitable to the Board shall be installed at every corner of each lot within the subdivision. Their locations shall be noted on the definitive plan.
- C. No permanent monument or marker shall be installed until all construction which would disturb or destroy the monument or maker is completed.
- D. All monuments and markers shall be installed before the bond or covenant is released.

§ 234-27. Trees and planting.

- A. All landscaping and planting within the rights-of-way will come under the supervision of the Tree Warden. A twelve-foot minimum will be required on the utility side and a ten-foot minimum on the opposite side for tree belts. Trees are to be planted no greater than forty (40) feet apart. Trees should be planted in locations which avoid overhead or underground utilities. The Planning Board recommends that the following trees not be planted: all species of willow, catalpa, Norway maple poplar or other tree species considered invasive in Massachusetts.
- B. On the side of the street where overhead wires are present, large and medium growing trees should be planted within the front yard of the individual property owner, away from such wires.

§ 234-28. Utilities.

All electrical, telephone, fire alarm and other wires and cables shall be installed underground unless, in the opinion of the Board and the appropriate utility company, such installation is impractical or not in the best interest of the town. If located within a flood-prone area, as determined by the Board, transformers, switching equipment or other vital components shall be floodproofed and approved by the Board or a Board-appointed engineer at the subdivider's expense.

§ 234-29. As-built plans.

After final approval of all the improvements in the subdivision and before final release of the performance guaranty, the applicant shall furnish the Board with two (2) copies of an as-built plan, showing location and grades of roads, as built, as well as all utilities, as installed, including inverts of drainage and sewerage systems.

§ 234-30. Final cleanup.

After completion of construction and before release of the performance guaranty, the subdivider shall removal all temporary structures, debris, surplus materials and rubbish and shall otherwise leave the area in a neat and orderly appearance. Burning of the rubbish and waste material is prohibited.

**ARTICLE VII
Administration**

§ 234.31. Inspections.

A. General requirement.

- (1) Inspections shall be carried out at appropriate times during the development of the subdivision when the following stages of progress have been reached.
 - (a) Before clearing and grubbing, the Tree Warden shall designate those trees which are to be preserved in the tree belt.
 - (b) The roadway shall be inspected at the stages of subbase, gravel base, binder course and surface course.
 - (c) The sanitary and storm drainage systems before the filling of utility trenches.
 - (d) The water system and related accessories shall be inspected by the Water Department of Whately.
 - (e) Sidewalks shall be inspected upon completion of the subbase, permanent binder and finish courses.
 - (f) Curbs, loaming and seeding operations may also be inspected by a Board-appointed engineer.
- (2) At the completion of all improvements in the subdivision, the Board-appointed engineer shall make an inspection before final release of the performance guaranty.

B. A qualified engineer or surveyor chosen by the Planning Board shall carry out such inspections in behalf of the town. The subdivider shall give the proper inspector at least forty-eight (48) hours' notice of the proper time for inspection.

- C. Construction of streets and installation of utilities may be phased, provided that each section shall not be less than five hundred (500) feet in length.
- D. Inspection costs shall be borne by the subdivider.
- E. Each specified construction stage should be completed to the satisfaction of the inspector, in writing, before further work will be done. Further work performed without this approval will result in returning the construction to the status necessary to perform the required inspection.
- F. The developer has the responsibility to ensure that the approved construction plans are implemented and construction criteria are met. Surveillance and field revisions by town officials and inspectors cannot be construed as fulfilling this responsibility.

§ 234-32. Permission required.

No building shall be erected within a subdivision without permission from the Building Inspector or Planning Board as appropriate.

§ 234-33. 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.

§ 234-34. Fees.

Expenses for advertising, notices, inspections and professional review will be borne by the applicant.

§ 234-35. Severability.

The invalidity of any of the foregoing rules, regulations and requirements shall not affect the validity of the remainder. Any part of these regulations subsequently invalidated by a new commonwealth law or modification of an existing commonwealth law shall automatically be brought into conformity with the new or amended law and shall be deemed to be effective immediately.

§ 234-36. Higher standard to govern.

Whenever these rules and regulations made under the authority hereof differ from those prescribed by any local bylaw or other local regulation, the provision which imposes the greater restriction or the higher standard shall govern.

§ 234-37. Statutory rules and regulations.

For matters not covered by these rules and regulations, reference is made to MGL C. 41, § 81-K to 81-GG, inclusive.⁵

⁵ Editor's Note: The appendix material, consisting of typical street sections, recommended procedures, sample forms and other information, is on file in the office of the Town Clerk.

APPENDIX A

Development Guidelines by Landscape Type

The following provides criteria for categorizing land into four (4) landscape types, based on landform, vegetation and existing development. For each landscape type, guidelines are provided for development consistent with town goals and character. The layout and construction of ways within subdivisions should be designed to comply with these guidelines and so as to facilitate vegetative cover and building development consistent with them. Included in these guidelines are considerations beyond subdivision control, such as suggested building materials. These are included here as a reference, for possible implementation at the developer's option.

Developers who believe that alternative guidelines would better meet the general goals being sought are encouraged to state those alternative guidelines as a part of their plan submittal.

Open Plain

IDENTIFICATION -- Flat land generally cleared of trees, now cropland or fields.

OBJECTIVES -- To maintain the open sweep of the land; avoid shapeless suburbia.

BUILDING SITING -- Cluster tightly, avoid scattered structures, repetitive yard dimensions.

ROAD LOCATION -- Lanes in clusters possibly rectilinear, others curving in response to minor land features.

VEGETATIVE COVER -- Protect any existing tree belts, plant street trees within clusters; mow, plow, graze.

BUILDING DESIGN -- Strong colors and textures, wood preferred; variation in basic building designs encouraged.

OTHER CONSIDERATIONS -- Agriculture encouraged.

Wooded Plain

IDENTIFICATION -- Flat land, generally wooded.

OBJECTIVES -- To avoid "suburban" development character, protect forest ecology.

BUILDING SITING -- Cluster preferred; scattered buildings away from or on edges of clearings, screened from roads.

ROAD LOCATION -- Frequent curves, staggered intersections.

VEGETATIVE COVER -- Clear underwood, only selectively clear trees.

BUILDING DESIGN -- Less critical than in other areas.

OTHER CONSIDERATIONS -- Better suited to development than most landscape types.

Mountain

IDENTIFICATION -- Mountainous land to the West of Chestnut Plain Road and associated highlands, predominantly steep and wooded.

OBJECTIVES -- To protect the fragile mountain ecology, protect the visual quality of the town's backdrop.

BUILDING SITING -- Cluster on less steep portions and in land folds, away from crests.

ROAD LOCATION -- Follow contours, minimizing cuts and fills.

VEGETATIVE COVER -- Preserve existing cover to degree possible.

BUILDING DESIGN -- Low structures, slope-following; no large, light surfaces, bright paint or exposed metal; muted color, soft form; wood, earth, weathered silvers, grays, browns.

OTHER CONSIDERATIONS -- Extraordinary care necessary to avoid erosion; development generally undesirable.

Village

IDENTIFICATION -- Land in the vicinity of concentrated development, whose character is established by existing development.

OBJECTIVES -- To continue and provide consistency with the pattern and character of existing development.

BUILDING SITING -- Compact clustering; avoid scattered structures.

ROAD LOCATION -- Short rectilinear segments in clusters, others curving in response to land features.

VEGETATIVE COVER -- Retain or plant street trees, preserve other trees where feasible.

BUILDING DESIGN -- Anything consistent with scale, texture and colors of nearby structures; wood preferred; variety in basic building designs encouraged.

OTHER CONSIDERATIONS -- Better suited to development than most landscape types.