
TOWN OF BROOKLINE, NEW HAMPSHIRE

SUBDIVISION REGULATIONS



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TABLE OF CONTENTS

SECTION 1. AUTHORITY.....1

SECTION 2. DEFINITIONS.....1

SECTION 3. PROCEDURE4

 Section 3.1. General.....4

 Section 3.2. Preliminary Conceptual Consultation Phase.....7

 Section 3.3. Design Review Phase.....7

 Section 3.4. Final Phase7

SECTION 4. PLAT REQUIREMENTS.....9

 Section 4.1. Compliance9

 Section 4.2. Character of Land.....9

 Section 4.3. Lot Layout9

 Section 4.4. Existing Features9

 Section 4.5. Fire Protection.....9

 Section 4.6. Submission Documents Required.....11

 Section 4.7. Legal Data Required.....14

 Section 4.8. Roads.....15

 Section 4.9. Financial Guarantees.....16

 Section 4.10. Design for Open Space.....17

 Section 4.11. Trees and Plantings.....18

 Section 4.12. Open Space Development18

 Section 4.13. Phasing.....19

 Section 4.14. Hours of Construction.....19

SECTION 5. ROAD AND UTILITY STANDARDS.....20

 Section 5.1. Street Design.....20

 Section 5.2. Drainage20

 Section 5.3. Utilities.....21

 Section 5.4. Street Names21

 Section 5.5. Site Reclamation Standards for On-Site Stump Burial.....21

SECTION 6. ADMINISTRATION AND ENFORCEMENT.....23

 Section 6.1. Modification.....23

 Section 6.2. Acceptance of Streets23

 Section 6.3. Other Regulations23

 Section 6.4. Enforcement23

Section 6.5. Violations and Penalties 23

Section 6.6. Appeals..... 23

Section 6.7. Validity..... 23

SECTION 7. DRIVEWAY REGULATIONS..... 24

Section 7.1. Purpose 24

Section 7.2. Definition 24

Section 7.3. Design Features 24

Section 7.4. Permit and Penalty..... 25

Section 7.5. Common Driveways 25

Section 7.6. Easement and Performance Guarantee – For Single and/or Common Driveways..... 26

Section 7.7. Fees..... 26

LIST OF APPENDICES..... A-i

SECTION 1. AUTHORITY

Pursuant to the authority vested in the Brookline Planning Board by the voters of the Town of Brookline, in accordance with the provisions of Chapter 674: Sections 35-37, 43-44 inclusive, NH Revised Statutes Annotated 1983 as amended, the Brookline Planning Board adopts the following regulations governing subdivision of land in the Town of Brookline, New Hampshire.

SECTION 2. DEFINITIONS

Abutter: Shall mean any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board. For purposes of receiving testimony only, and not for purposes of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term abutter means the officers of the collective or association, as defined in RSA 356-B:3, XXIII. *For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a manufactured housing park from the ownership as defined in RSA 205-A:1, II, the term "abutter" includes the manufactured housing park owner and the tenants who own manufactured housing which adjoins or is directly across the street or stream from the land under consideration by the local land use board, as amended. (2021)*

Active and substantial development or building: In the absence of a condition of approval by the Planning Board, specific to the subject project, in the absence of a specific finding by the Planning Board, active and substantial development or building shall be deemed to have occurred when at least twenty percent (25%) of the total building foundations or one building foundation – whichever is greater – on the site has been installed, inspected and approved by the Building Inspector, utilities have been extended to the site, and a certified plot plan of the foundation, if requested by the Building Inspector, has been submitted. All erosion control measures as specified on the approved plan for the area of disturbance must be installed.) (8/21/97) (08/02/2012)

Agent: Shall mean any person designated in writing by the owner to be the representative of the owner in any matter before the Board. (8/21/97)

Approval: Shall mean recognition by the Planning Board, certified by written endorsement on the plat, that the final plat submission meets the requirements of these regulations and satisfies, in the judgment of the Planning Board, all criteria of good planning and design.

Approval, Conditional: Shall mean an expression by the Planning Board that the Plat is approved but requires additional information or must meet specific conditions for the approval to be valid. Conditional Approval does not constitute, nor should it be construed as, approval, either implied or granted, of the final plat, nor does it bind the Planning Board to approval of the Final Plat.

Board: Shall mean the Planning Board of the Town of Brookline.

Bond: Shall mean a bond or other form of surety filed with the Selectboard whose purpose is to ensure that work specified by the Planning Board is completed satisfactorily. The amount of the Bond shall be determined by the Planning Board with such assistance as it deems necessary. The amount shall be sufficient to cover all costs for completion of the work by the Town in the event that the applicant defaults. In all other respects, the action of the Board shall be governed by NH RSA 674:36 III.

County Conservation District: Shall mean the Hillsborough County Conservation District (HCCD).

Completion Bond: A performance bond, letter of credit or other type of security which shall be filed with the Selectboard in an amount sufficient to ensure that the road system and other improvements approved by the Planning Board are constructed and installed properly. This bond shall comply with the requirements set out in sections 4.8 and 4.9. (9/7/93)

Completed Application: A completed application sufficient to invoke jurisdiction to obtain approval from the Planning Board shall mean that sufficient information is included or submitted to allow the Board to proceed with consideration

and to make an informed decision. A completed application is one which meets all of the requirements set out in section 4.6.05 of these regulations, and Appendix E of these regulations. (5/9/89)

Dwelling Unit: Shall mean one room or rooms connected together, constituting a separate, independent housekeeping establishment physically separated from any other dwelling units in the same structure, and containing independent cooking and sleeping facilities.

Disturbed Area: Shall mean any area where the ground cover is destroyed, changed or removed leaving the land subject to accelerated erosion.

Easement: Shall mean the land area created through authorization by a property owner for the use by another and for a specified purpose of any designated portion of his property.

Erosion: Shall mean the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

Final Plat: Shall mean the final drawing or drawings on which the subdivider's plat of subdivision is indicated, prepared as required under the provisions of section 4.

Grading: Shall mean the excavating, grubbing, filling, (including hydraulic fill), or stockpiling of earth materials and or combination thereof, including the land in its excavated or filled condition.

Site Specific Soils Map: Shall mean a soils map of a parcel of land being considered for development in accordance with the site specific soil mapping standards (SSSMS) for New Hampshire and Vermont as adopted by the Society of Soil Scientists of Northern New England. (9/05/02)

Inspector: Shall mean a duly designated inspector appointed by the Board to inspect all aspects of the project.

Licensed Land Surveyor: Shall mean a person who engages in the practice of land surveying and is licensed by the State of New Hampshire.

Licensed Professional Engineer: Shall mean a person who, by professional education and practical experience, is qualified and licensed to practice engineering by the State of New Hampshire.

Lot: Shall mean a parcel of land or any combination of several lots of record, created by subdivision to fulfill the minimum lot size requirements for building as provided in the Brookline Zoning Ordinance.

Lot Line Adjustment: Shall mean the subdivision of land which does not create buildable lots, or the creation of lots for non-building development purposes.

Maintenance Bond: A performance bond, letter of credit or other type of security which shall be filed with the Selectboard to ensure that the road system and other improvements were constructed and installed properly. This bond shall comply with the requirements set out in sections 4.8 and 4.9. (9/7/93)

Maintenance Guarantee: A required monetary commitment on the part of a construction contractor to ensure that the improvements to a development have been completed in a satisfactory manner for a fixed period of time. See Section 4.9.06. (08/02/2012)

Master Plan: Shall mean the comprehensive plan or plan of development for the Town of Brookline.

Performance Guarantee: A required monetary commitment on the part of a construction contractor to complete a development in a satisfactory manner, or when a specific activity ends, remove a potentially hazardous or undesirable situation. See Section 4.9.06. (08/02/2012)

Soils Scientist: Shall mean a person experienced in on site field work pertaining to classifying and mapping soils by soil types according to physical characteristics of depth, color, horizon, texture, slope, and drainage under the Standards of the National Cooperative Soil Survey or other standard classification system. Such persons shall be subject to the approval of the Planning Board. ***Soil Scientist should be licensed in the State of New Hampshire. (2021)***

Sediment: Shall mean any deposit of material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.

Soil Erosion and Sediment Control Plan: Shall mean a plan for soil erosion and sediment control developed as specified in the Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire (1981), as amended.

Street: Shall mean any existing public vehicular ways, except alleys. All streets shall be within dedicated rights-of-way which have been properly processed, approved and recorded.

Street, Local: Shall mean a street used primarily to give access to abutting properties.

Street, Collector: Shall mean a street which, in addition to giving access to abutting properties, serves primarily to carry traffic from local streets to arterial streets and to public and other centers of traffic concentration. A collector street may be further classified as major or minor, depending on average daily traffic counts.

Street, Arterial: Shall mean a street or highway used primarily for heavy and/or through traffic.

Subdivider: Shall mean the owner of record of the land to be subdivided, including any subsequent owner of record making any subdivision of such land or any part thereof, or the duly authorized agent of any such owner. (8/21/97)

Subdivision: Shall mean the division of the lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title.

Subdivision, Minor: Shall mean the subdivision of land into three (3) or fewer lots, with no potential for re-subdivision, and requiring no new roads, utilities or other municipal improvements.

Substantial Completion: In the absence of a condition of approval by the Planning Board, specific to the subject project, substantial completion of the development shall be deemed to have occurred when a Certificate of Occupancy for all buildings shown on the approved ~~site plan~~ subdivision plan shall have been issued by the Brookline Building Inspector, and all other on-site and/or off-site improvements have been determined by the Town of Brookline or its agent to be in compliance with the approved ~~site plan~~ **subdivision plan** or satisfactory financial guarantees remain on deposit with the Town to insure completion of such improvements. (08/02/2012) **(2021)**

Time Periods: Shall mean all time periods are calculated in terms of calendar days unless otherwise noted.

Winter Season: Shall mean the period of time between November 1st and May 1st. (8/21/97)

SECTION 3. PROCEDURE

Section 3.1. General

- 3.1.01. The Board shall, in the exercise of the authority granted pursuant to NH RSA 674:36, review all proposed subdivisions with a view toward determining the impact that the proposed subdivision will have on various Town services, and to that end, the Board shall also review all such proposed subdivisions with a view toward determining whether such proposed subdivision, if permitted, would create one of the following conditions:
- a. Constitute a scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services,
 - b. Necessitate an excessive or unreasonable expenditure of public funds for the supply of such services.
- 3.1.02. The procedure for subdivision approval consists of: Preliminary Conceptual Consultation Phase, Design Review Phase and a Final Phase, *as defined in NH RSA 676:4, II. (2021)*
- a. Preliminary Conceptual Consultation Phase - is the conceptual review with the Planning Board and the Developer. This phase is optional and used for reviewing the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration. *It is strongly encouraged that all open space developments take advantage of the preliminary conceptual consultation phase and the design review phase in order to discuss general design concepts and determine the number of lots allowed on a tract. (moved from Section 3.1.32)* The applicants, their representatives or designees must attend a Conservation Commission meeting prior to discussion with the Planning Board. (07/16/2020).
 - b. Design Review Phase - consists of the review of the technical details of the subdivision application by the Planning Board. This phase is optional and used for reviewing more specific design and engineering details of the development.
 - c. Final Phase - begins upon acceptance of the application by the Planning Board. It is to ensure that all technical Requirements, State approvals, and legal data have been submitted as required.
- 3.1.03. Before any subdivision is made, or the transfer or sale of any part thereof, or before the construction of streets, or before the installation of municipal services therein, or before any application for a permit for the erection of a structure thereon shall be made, the owner thereof or his authorized agent, shall apply in writing to the Board and be granted approval of such subdivision. The application shall be made on the form provided by the Board.
- 3.1.04. All applications made to the Board shall be filed with the Board's Secretary at least thirty (30) days prior to the date of a Board meeting at which the applicant or his agent wishes to appear.
- 3.1.05. Applications and plats will be reviewed by the Board's Designated Representative within ten (10) days after the filing of the application to determine if the application and plats conform to the requirements of these regulations. Applicants will be notified of any deficiencies which must be corrected in order for the application to be considered complete and placed on a Board agenda for formal consideration.
- 3.1.06. After such notice of non-conformance, the applicant may revise the plat(s). The revised plat(s), which must meet the requirements of a completed application *as determined by the Planning Board*, shall be resubmitted at least fifteen (15) days prior to the Board's meeting at which the applicant or his agent wishes to appear. (5/9/89, 11/19/91) (2021)
- 3.1.07. Any plans, revisions, or re-submittals to be placed on the Board's agenda, must be submitted to the Planning Board secretary at least fifteen (15) days before the meeting at which the applicant or his agent wishes to appear. (5/9/89, 11/19/91)
- 3.1.08. A completed application sufficient to invoke jurisdiction of the Board, shall consist of all data required as reflected on an attached checklist (Appendix E) and section 4.6.05 of these regulations, a complete list of

abutters as indicated in Town records not more than five (5) days before the day of filing, the name and business address of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board, payment of fees per the approved schedule, eight (8) prints of all drawings to be recorded, and eight (8) prints of topography and road profiles. (5/9/89, 11/7/95)

- 3.1.09. Adherence to these requirements will qualify a completed application to be placed on the Board's agenda. The Board will accept a completed application (as defined in Sections ~~2.1.10 and~~ 3.1.08) only at a properly noticed public meeting of the Board. (5/9/89) (2021)
- 3.1.10. A sixty-five (65) day review period begins on the date of the meeting at which the completed application is formally accepted by the Board. The Board must begin formal consideration of the application within thirty (30) days of acceptance. If the Board fails to act on the application within the sixty-five (65) day period, the applicant may either apply to the Selectmen for an order directing the board to act on the application within 30 days, or consent to an extension of the sixty-five (65) day review period. If the planning board does not act within that time, then within 40 days of the issuance of the order, the selectmen shall certify on the applicant's application that the plat is approved unless the selectmen have identified some specific subdivision regulation, zoning, or other ordinance with which the application does not comply. If the selectmen do not issue an order or approve the subdivision, the applicant may appeal to superior court. (11/19/91) (9/05/02) (07/16/2020)
- 3.1.11. The Board may apply to the Selectmen for an extension not to exceed an additional ~~ninety (90)~~ **sixty-five (65)** days before acting to approve or disapprove an application. The applicant may waive the requirement for planning board action within the time periods specified in section 3.1.10 and consent to such extension as may be mutually agreeable. (2021).
- 3.1.12. Abutters and applicant, as well as every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board will be notified by certified mail, return receipt requested, of the date and time of the meeting at which the application will be formally submitted to the Board for acceptance. Notice will be mailed at least ten (10) days prior to the meeting. Notice to the General Public shall also be given at the same time by posting in two (2) public places in the Town of Brookline at least ten (10) days prior to the meeting, or publication in a newspaper of general circulation. The notice will include a description of the proposal, the name of the applicant and the location of the proposal. If the time, date and place of an adjourned session of any properly noticed public hearing is made known at the hearing, additional notice for the continuance is not required. (11/7/95)
- 3.1.13. Application Fees shall be submitted in accordance with the fee schedule outlined in APPENDIX B: FEES and shall accompany the submission of subdivision plans. Failure to pay such costs shall constitute valid grounds for the Planning Board to terminate further consideration of the application. (5/6/99)
- 3.1.14. The Board may, at its discretion, and upon written request of the applicant, hold the acceptance and approval meeting, and the public hearing at the same time. Such an expedited review process shall be only for minor subdivisions.
- 3.1.15. No application for expedited review shall be approved without full and proper notice to abutters and the general public as is required elsewhere in these regulations.
- 3.1.16. Approval of the subdivision plat shall be by affirmative vote of the majority of the Board present at the meeting. The plan is certified by the signatures of the Board Chairman or Co-Chairman, Vice-chairman and Secretary and the date of approval on the plat. The Board will transmit the signed and dated mylar copy of the plat to the Hillsborough County Register of Deeds along with the recording fees paid by the applicant. The approved plat will not be recorded until all fees have been paid by the applicant. (11/7/95) (9/05/02)
- 3.1.17. The Board may grant conditional approval of an application if the remaining actions on the application: are administrative in nature; do not involve discretionary judgment by the Board; and/or involve the applicant's possession of permits and approvals granted by other boards or agencies, such as *the NH DES or NH DOT. Wetlands Board, the Department of Transportation or the Water Supply and Pollution Control Division*. In these instances, final approval may be granted without further public hearing. A public hearing will be required to demonstrate compliance with the terms of all other conditions pursuant

to RSA 676:4,I(i). Final approval will be granted when the conditions have been met to the satisfaction of the Board. The plat will not be recorded at the Hillsborough County Registry of Deeds until all of the conditions have been met. ~~If the conditions are not met by the next regular monthly meeting after the date at which the conditions approval was granted, the Board will determine the appropriate action to be taken on the application. (11/7/95).~~ Whenever a plat is recorded to memorialize an approval issued by the Board, the final written decision, including all conditions of approval, shall be recorded with or on the plat. (09/16/2010). (2021).

- 3.1.18. If an application is not approved, the reasons for the disapproval will be clearly stated in the Board's records and in written notice provided to the applicant within ten working days of the public hearing. (11/7/95)
- 3.1.19. Every plan approved by the Planning Board and properly recorded in the registry of deeds shall be exempt from all subsequent changes in subdivision regulations and zoning ordinances as set forth in RSA 674:39, as that law is from time to time amended. For the purposes of RSA 674:39 and this section, "active and substantial development or building" is defined in section 2 of these regulations. (8/21/97)
- 3.1.20. The Board shall impose fees for subdivision procedures in accordance with the approved fee schedule contained in Appendix B. Expenses for plan review, pursuant to RSA 676:4,I(g) incurred by the Planning Board in having the proposed subdivision plan reviewed by a consulting engineer or other planning consultant, in making environmental impact, hydrological impact, ground water quality impact, traffic impact, and other special studies, or any other study deemed necessary by the Planning Board in order to make an informed decision on the subject plan; and in preparing or reviewing performance bonds, deeds and other documents shall be borne by the applicant. All plan reviews, impact studies, and document reviews shall be made by planners, surveyors, engineers, soil scientists, wetland scientists, technical consultants, attorneys, and other professionals retained by the Planning Board. No employment or other contractual relationship shall exist between the professional and the applicant. All expenses incurred by the Planning Board and the Town of Brookline in processing an application for subdivision approval and inspections of such subdivisions shall be borne by the applicant. (5/6/99)
- 3.1.21. For each minor and major subdivision plan, engineering review may be required at the discretion of the Planning Board at the expense of the applicant in accordance with RSA 676:4-I(g). Cost for such services shall be paid by the applicant to the Town of Brookline. (11/01/01) (2007) (08/02/2012)
- 3.1.22. ~~For all subdivisions,~~ Costs for engineering inspections, Town Planner review, **Consultants hired by the Town of Brookline**, and Town Counsel review of any legal document shall be borne by the applicant and paid to the Town of Brookline. Upon receipt of the invoice sent by the Town Engineer, Town Planner, **Consultant**, or Town Counsel for inspections and reviews performed, the Planning Board will bill the applicant directly. The applicant will be given a maximum period of ~~14 (fourteen)~~ **30 (thirty)** days to pay the bill, by check or money order. If a payment is not received within the initial ~~14 day~~ **30-day** period, an administrative fee will be charged to the applicant to resend the bill. If a payment is not received within ~~14 (fourteen)~~ **30 (thirty)** days after a second bill is sent to the applicant, all inspections will stop, and no building permit will be issued until the payment is received by the Town of Brookline. (2007) (2021).
- Engineering review for subdivisions may be required by the Planning Board at the expense of the applicant in accordance with RSA 676:4I(g). Funds for such services shall be paid by the applicant and shall be deposited with the Town of Brookline in an escrow account, to be dispersed on a monthly basis upon satisfactory completion of services. The Planning Board reserves the right to add to and/or enlarge the Scope of Services agreed to be provided hereunder when and if the Planning Board, in the course of review of the application, determines that further advice of the engineer is necessary. Additional review shall commence upon deposit of fees to cover the cost of consultant services. (5/6/99) [This language was eliminated from the regulations in 2007 but could be added again, should the Board decide to establish escrow accounts for a specific application] (2021)*
- 3.1.23. Sprinkler System review and inspection costs for each dwelling shall be borne by the applicant and paid to the Town of Brookline at the time of application for a building permit. Should additional inspections be required a re-inspection fee will be billed. All bills are to be paid within 14 days or before the issuance of a certificate of occupancy. (2007)-(2021)

- 3.1.24. ~~No certificate of occupancy shall be issued until the sprinkler system has been fully inspected and approved by the Sprinkler Inspector or a designee and all fees have been paid. The Fire Department must be notified a minimum of five (5) to seven (7) working days in advance for approvals and inspections. (11/01/01) (10/21/04) (11/15/07) **Fire Protection is addressed in Section 4.5.01 (2021)**~~
- 3.1.25. All State and Local approvals shall be obtained as required elsewhere herein, prior to the Final Approval by the Board.
- 3.1.26. Applications for proposed subdivisions may be presented in an optional Preliminary Conceptual Consultation Phase and/or an optional Design Review Phase and a Mandatory Final Phase (except in the case of minor subdivisions).
- 3.1.27. The subdivider is encouraged to appear before the Board in a Preliminary Conceptual Consultation Phase which carries no obligations. This is intended to provide an open forum for the discussion of general concepts of a proposed subdivision and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration, prior to the formal application procedure.
- 3.1.28. The subdivider is strongly encouraged to appear before the Board in a Design Review Phase for any subdivisions with more than seven (7) lots. This phase provides for non-binding discussions with the applicant, and is intended to provide an open forum for the discussion of all technical requirements and engineering details applicable to the subdivision prior to the formal application. A notice to the general public and abutters is required as per section 3.1.12 of these regulations.
- 3.1.29. The Final Phase is intended to ensure that all technical requirements, State approvals, and legal data have been submitted as required.
- 3.1.30. The subdivider is encouraged to discuss his application with the Board's Designated Representative in order to discuss general concepts of a proposed subdivision and suggestions which might be of assistance in resolving problems with meeting requirements during final consideration, prior to the formal application procedure. (5/9/89)
- 3.1.31. Agreement with the concepts and design of a proposed subdivision in the Design Review Phase carries no assurance that approval will follow in the Final Phase, as discussions in the design review phase are non-binding.
- 3.1.32. ~~It is strongly encouraged that all open space developments take advantage of the preliminary conceptual consultation phase and the design review phase in order to discuss general design concepts and determine the number of lots allowed on a tract. (9/7/93) **Moved to Section 3.1.02**~~

Section 3.2. Preliminary Conceptual Consultation Phase

- 3.2.01. The Preliminary Conceptual Consultation Phase is a conceptual, first draft, review of a proposed subdivision.
- 3.2.02. Abutter notification is not necessary for the Preliminary Conceptual Consultation Phase.
- 3.2.03. The Preliminary Conceptual Consultation Phase implies no commitment by either the Planning Board or the Subdivider.

Section 3.3. Design Review Phase

- 3.3.01. The Design Review Phase are non-binding discussions with the applicant beyond conceptual and general discussions which involve more specific design and engineering details.
- 3.3.02. The Design Review Phase may proceed only after identification of and notice to abutters and the general public, as required.

Section 3.4. Final Phase

- 3.4.01. The Board shall review the plat(s) submitted in the Final phase from the point of view of a total project. Acceptance and approval by the Board shall constitute an agreement between the Town and the Applicant that the subdivision and development of the land in question shall be done as detailed on the final plat(s).

3.4.02. Deviation from the approved final plat(s) requires the approval of the Board.

SECTION 4. PLAT REQUIREMENTS

Section 4.1. Compliance

- 4.1.01. ~~No subdivision of land shall be made, and no land in any subdivision shall be sold or offered for sale or lease, and no street or utility construction shall be started until a final plat, prepared in accordance with the requirements of these regulations, has been approved by the Board, and other required permits have been issued. (eliminate this section as it repeats section 3.1.03)~~
- 4.1.02. The subdivider shall be familiar with all State and Town regulations relative to health, buildings, roads and other pertinent data, so that he/she is aware of the obligations and standards expected.

Section 4.2. Character of Land

- 4.2.01. All land to be subdivided shall be, in the judgment of the Board, of such character that it can be used for the building purposes without danger to public health or safety, or to the environment.
- 4.2.02. Land of such character that cannot be safely used for building purposes because of exceptional danger to the health, or peril from fire, flood, or other menace shall not be platted for residential occupancy, nor for any other uses as may increase danger to health, life, or property or aggravate the flood hazard until appropriate measures have been taken by the owner or his agent to lessen such hazards.
- 4.2.03. Lots created shall provide adequate capacity for sanitary sewage disposal.
- 4.2.04. Plats for the subdivision of land shall conform to all regulations of the Board, the Zoning Ordinances, ~~Water Supply and Pollution Control~~ *NHDES* Regulations, and other applicable by-laws, ordinances and regulations at the Federal, State and Local levels. (2021)
- 4.2.05. Reserve strips prohibiting access to streets or adjoining property ~~will~~ *shall* not be permitted, except where, in the opinion of the Board such strips shall be in the public interest.

Section 4.3. Lot Layout

- 4.3.01. The layout of lots shall conform to the requirements of the Zoning Ordinance and shall be appropriate for the intended construction.
- 4.3.02. Each lot shall have a width of not less than seventy (70) percent of the required frontage at all points between the lot sidelines, to a point half the depth of the lot, measured from the frontage line. Such width shall be measured along a line which is parallel to frontage line. *Backlots are exempt from these provisions. (2021).*

Section 4.4. Existing Features

- 4.4.01. The subdivider shall preserve all existing trees and shrubbery to the fullest extent possible. Special consideration shall be given to the arrangement and ultimate improvement or development of the lots to this end. Precautions shall also be taken to protect existing trees, shrubbery, vegetation and stone walls during the construction of roads and utilities.

Section 4.5. Fire Protection

Any lot on which a dwelling unit, commercial building or occupied structure that requires a building permit shall be subject to the requirements of this section for the purpose of protecting life and safety. Any water supply constructed or upgraded for the purpose of fire protection shall be approved by the Planning Board, after consultation with the *Board of Fire Engineers* and Town Engineer, prior to final subdivision approval. The final determination to require the construction of a fire protection water supply and the type of water supply to be constructed rests with the Planning Board and *the Board of Fire Engineers*. (6/15/00) (2021)

- 4.5.01. General Provisions. All subdivisions creating four (4) or more new building lots, if not within 2,500 feet of an approved water source (as measured by using driveways, roads and access areas for fire trucks as approved by the Board of Fire Engineers), will require a cistern(s) to be installed at a location approved by the Board of Fire Engineers in accordance with the provisions of Appendix G, Cistern Specifications. If placement of the cistern cannot result in all new homes in the subdivision being within 2,500 feet from the cistern, one of the following scenarios shall occur:
1. If three (3) or fewer homes remain further than 2,500 feet from the cistern, those remaining homes shall require a Sprinkler System in accordance with the provisions of Appendix H, Sprinkler System Specifications.
 2. If four or more homes remain further than 2,500 feet from the cistern, an additional cistern(s) shall be installed in accordance with the provisions of Appendix G.
 3. Subdivisions creating three (3) or fewer lots that are not within 2,500 feet of an approved water source will require Sprinkler Systems for all new homes in accordance with the provisions of Appendix H. Plans must be submitted by a fire sprinkler company in accordance with the requirements of Appendix H. (10/21/04)
- All subdivisions creating new buildable lots, not within 2,500 feet of an approved water supply system (as measured by using driveways, roads and access areas for fire trucks as approved by the Board of Fire Engineers), and three lots or less can have a cistern or sprinklers. Four lots or greater will require a cistern(s) to be installed at a location approved by the Board of Fire Engineers in accordance with the provisions of Appendix G,. An alternative water supply system or fire protection measure may be presented to the Board of Fire Engineers for approval (or disapproval.) Sprinkler plans must be submitted by a fire sprinkler company in accordance with the requirements of Appendix H. (10/21/04) Notwithstanding the provisions above, when the Brookline Board of Fire Engineers so deems that, due to specific conditions, there is a sufficient threat to life and property, it may recommend to the planning board that additional fire protection measures be provided, even if sprinkler systems are proposed. (2021) – (New language submitted by the Fire Department)*
- 4.5.02. Easements. An easement to the fire protection water supply shall be provided to the Town. All easements shall have standard language acceptable to the Town of Brookline and shall be reviewed and approved by Town Counsel and the Planning Board prior to final subdivision approval. (6/15/00)
- 4.5.03. Access to Gates. For commercial sites or locations in which a gate or chain is present, the placement of an approved “Knox Box” shall be required for emergency access to the property. (6/15/00)
- 4.5.04. Inspections. Inspections’ fee shall be paid in accordance with sections 3.1.22, 3.1.23, ~~7.6~~ **7.7** and Appendix B of the Town of Brookline, NH Subdivision Regulations. (6/15/00) (5/17/01) (11/15/07)
- The **Board of Fire Engineers** and Town Engineer or Inspector shall be notified with a minimum of (two) 2 full working days prior to commencement of any activity requiring inspection. Inspections shall typically include, but are not limited to:
- a. Erosion control measures
 - b. Compliance with State permits (dredge and fill)
 - c. Installations and compliance with specifications prior to back filling
 - d. Slopes and drainage ways prior to filling of water source
 - e. Witness pump and leak tests
 - f. Final inspection and approval. (2021)
- 4.5.05. Conditions and Bonding. Cisterns shall be completed and receive final inspection by Fire Engineer and Town Engineer, or be fully bonded, in accordance with section 4.9, Bonding, prior to the issuance of a Building Permit for any lot dependent on that water supply for fire protection. No Certificate of Occupancy shall be granted to dependent lots before presentation of the final inspection report from the Fire Engineer and the Town Engineer to the Building Inspector. (6/15/00) (9/05/02)

Section 4.6. Submission Documents Required

4.6.01. In all design review or final cases, applications shall include the names and addresses of the applicant and all abutters as indicated in the Town records not more than five (5) days before the filing of the application.

Three (3) sets of names and addresses shall be provided on self adhesive labels for use on correspondence size envelopes.

PRELIMINARY CONCEPTUAL CONSULTATION PHASE:

4.6.02. Suggested guidelines for submission are as follows: plats may be drawn in pencil. Data may be tentative but shall be sufficiently clear to show site conditions. Any maps should be appropriately scaled to show the amount of detail required, but not more than one hundred (100) feet to the inch.

4.6.03. Preliminary Conceptual Consultation Phase plats and documents should include the following information:

- a. Site survey map showing boundary of subdivision area, topography, streams, existing features, and foliage lines, existing roads, structures, adjacent development, and soil type by U.S.S.C.S
- b. Site location map (at scale of municipal base map or official map) showing proposed subdivision in relation to major roads, community facilities, and utilities of the Town.

4.6.04. ~~There are two approaches to determining the number of allowable lots in an open space development. The applicant may choose either method a. or method b.:~~

~~a. Develop a preliminary conventional plan, showing at least:~~

- ~~(i) Site specific soils, major wetlands areas, steep slopes (9/05/02)~~
- ~~(ii) Preliminary road locations~~
- ~~(iii) Lot areas in square feet and/or acres~~
- ~~(iv) Amount of wetlands and non-wetlands~~
- ~~(v) Number of lots to be created~~
- ~~(vi) Floodplain data~~

~~After reviewing this design review plan to ensure that it is likely to meet the zoning for a conventional subdivision, the Planning Board will allow the applicant to propose an open space development with the number of lots which the Planning Board deems acceptable under the above conventional plan.~~

~~b. The applicant may use a general 1 unit per 80,000 square foot calculation, subtracting out slopes greater than 25% and wetlands. For this calculation, the applicant must present a plan showing:~~

- ~~(i) Site specific soils, major wetlands areas, steep slopes (9/05/02)~~
- ~~(ii) Amount of wetlands and non-wetlands~~
- ~~(iii) Floodplain data (Moved to Section 4.10.03) (2021).~~

4.6.05. Suggested guidelines for Design Review Phase submission are as follows: plat(s) should be submitted in eight (8) paper print copies and one printable 11"x17" electronic format. Dimensions and data shall be sufficiently clear to illustrate all conditions and clarify the design requirements for the subdivision plat. Maps shall be at a scale of not more than one hundred (100) feet to the inch. The Design Review Phase plat(s) should contain at least the following information: (08/02/2012)

- a. Name and location of the subdivision, name and address of the subdivider, owner of record, applicant, engineer and designer.
- b. Names and addresses of abutting property owners; subdivisions, names and business addresses of every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the Board; location of wells, septic systems and buildings within one hundred (100) feet

- of the parcel of land to be subdivided; intersecting roads and driveways within two hundred (200) feet of the subdivision; and frontage on existing roads. (11/7/95)
- c. Location of all existing buildings.
 - d. Existing and proposed street right-of-way lines, widths of streets, proposed names of new streets, existing and proposed lot lines.
 - e. Location of existing and proposed easements, deed restrictions, building set back lines, parks, recreation facilities, conservation areas, and other open space, water courses with direction of flow indicated (including seasonal), foliage lines and significant natural and man-made features, storm water drainage structures and drainage ways, flood hazard areas.
 - f. If utility company(s) requires an easement to provide service, no final approval shall be granted by the Board until such easements are secured. Also, a letter of intent to provide service from the utility company(s) **must** accompany the application.
 - g. Boundaries of Zoning Districts lying within the subdivision, municipal boundary if any, land use designation per zoning.
 - h. A general site location map at the scale of the Municipal base map, locating exactly the subdivision boundary and proposed streets in relation to at least two existing intersecting streets or other features shown on the municipal base map.
 - i. A statement of conditions of land as to suitability for residential development based on data from Soils Potentials for Development, (HCCD 1986, as amended).
 - j. A statement and contours in sufficient detail to indicate clearly the method of storm water drainage on and off the subdivision.
 - k. A Site Specific soil map shall be required, reviewed and certified by a licensed soil scientist (11/15/07)
 - l. Watershed areas and drainage computations proving a no-net increase in rate or volume of offsite flow (11/15/07).
 - m. Preliminary road profiles: cross sections may be requested by the Planning Board if warranted.
 - n. Location of fire ponds and fire protection drafting sites, if any. (11/15/07)
 - o. Access for fire fighting apparatus.
 - p. Wet Areas as defined by Wetlands Ordinance, in square feet of wet and non-wet.
 - q. A letter stating the proposed disposal of tree stumps. If they are to be disposed of on site, areas shall be shown on the plat, and a reclamation plan shall be submitted as part of the application. Stump burial shall be directed to the side and rear set back areas along property boundaries as possible. Stump burial sites shall be located a minimum of 25' from the edge of septic systems, 75' from wells, and 75' from the edge of a wetland. (5/6/99)
 - r. Location of soil test pits and accompanying test pit and perc test data.
 - s. For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP), the Planning Board shall:
 - A. Review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendment of 1972, 33I.S.C. 1334,
 - B. Require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation),

- C. Require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow determination that:
- (i) all such proposals are consistent with the need to minimize flood damage;
 - (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
 - (iii) adequate drainage is provided so as to reduce exposure to flood hazards. (8/21/97) (11/15/07)
- t. Location and size of the area considered necessary for septic leach fields and any proposed connections of alternative means for sewage disposal.
- u. Number of lots to be created.
- v. Magnetic and true north point.

THE FINAL PHASE PLAT(s):

- 4.6.06. Final Phase Plat(s) shall be in permanent black ink, on a reproducible Mylar (electrostatic Mylars are not acceptable). It shall be filed together with eight (8) blue (black) line prints on paper and one printable 11"x17" electronic format. Sheet sizes shall be in accordance with the requirements of the Register of Deeds, Hillsborough County. Space shall be reserved on the Plat for the endorsement by the Planning Board Chairman and Secretary. The plat shall contain the following statement: "The Subdivision Regulations of the Town of Brookline are a part of this plat, and approval of this plat is contingent on completion of all the requirements of said Subdivision Regulations, except any variances or modifications made in writing by the Board and attached hereto." In addition to the above information, the following shall be required: (08/02/2012) (07/16/2020)
- a. All suggested guidelines of the Design Review Phase.
 - b. Name and seal of the engineer and land surveyor registered with the State of New Hampshire.
 - c. Final disposition of land into lots, streets, open spaces, drainage courses and any easements running with the land.
 - d. The subdivision plat shall be based on a boundary survey with a maximum error of closure of 1 in 10,000 the State of New Hampshire, distances shall be to the nearest 100th of a foot and bearings to the nearest 10 seconds.
 - e. Stations, radii, curve data and paving widths for proposed streets.
 - f. Lot dimensions, area in square feet and acres, and street numbers for the lots as determined by the Brookline Emergency Management Director; (8/21/97) (9/05/02)
 - g. Accurate locations of all easements, either on or off the site.
 - h. A written acknowledgment of the subdivider's responsibility for maintenance, and the assumption by him/her of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the Town.
 - i. Names of proposed streets and roads cannot be duplicated nor bear phonetic resemblance with existing street names in the community; all streets will, as far as practical, follow past practice of naming streets after long-time Brookline families or residents; the Brookline Historical Society should be contacted for assistance. ***The applicant shall contact the Brookline Emergency Management Director with proposed street names for approval in coordination with State E911 requirements. (2021).***
 - j. Accurate locations of all monuments to be set at street intersections, points of curvature and tangents of curved streets and angles of lots.

- k. Existing and proposed contours at five (5) foot intervals.
- l. Existing and proposed plans for telephone, electricity, and other public utilities; a letter of intent from the utility companies to provide service.
- m. Proposed twenty-five (25) year storm drainage accompanied by a drainage analysis map and computations for the entire watershed area. (5/6/99)
- n. Final road profiles.
- o. 75 foot well radii. (11/19/91)
- p. School bus stops and areas shown on plans. The Brookline School Board shall be contacted **by the applicant** for assistance. (9/7/93) **(2021)**
- q. If the subdivision abuts a State Highway, or if a proposed street intersects a State Highway, a driveway permit from the NH Department of Public Works and Highways approving said access.
- r. The Final plat shall contain a volume and page reference sufficient to indicate the subdivider's derivation of title in the event only one parent tract is involved, and if the subdivision constitutes an assemblage of several tracts, the plat shall contain a title reference of each and indicate where each of the lots shall be numbered so as to coincide with the Town of Brookline Tax Map numbers.
- s. Copies of all applicable federal, state and local approvals and permits, including:
 - ~~N.H. Department of Environmental Services (NH DES) Water Supply and Pollution Control Division (WSPCD) Subdivision Subsurface Sewage Disposal Approval Permit;~~
 - ~~N.H. DES WSPCD Site Specific Permit;~~
 - ~~N.H. Wetlands Board Dredge and Fill Permit;~~
 - ~~Army Corps of Engineers Dredge and Fill Permit; and~~
 - New Hampshire Department of Transportation Curb Cut Permit **(NH DOT). (2021)**
- t. All permit numbers and written decisions including conditions of approval shall be noted on the plat. (8/21/97) (08/02/2012)
- u. All engineer prints shall be done by a qualified, registered engineer by the State of New Hampshire and have his seal affixed to each sheet.
- v. Provide a signed statement of off-site improvements agreed upon between the applicant/developer and the Selectboard.
- w. A check to the Town of Brookline to cover filing fees, mailing, advertising, recording, special investigative and consulting studies, and other costs.
- x. A traffic study, if required by the Board. (5/9/89)
- y. A fiscal impact analysis, if required by the Board. (5/9/89)
- z. Payment of a fee to update the Town's computerized parcel map as specified in Appendix B. (8/21/97)

Section 4.7. Legal Data Required

- 4.7.01. When applicable to a specific subdivision, the following are required, in form and substance as approved by the Town Council **prior to the approval of the subdivision plat**:
 - a. Agreement to convey to the Town land to be used for streets and other public purposes, with the transfer of title to such interests to be effective on such date as the Town accepts such land;
 - b. Covenants which shall include a definitive statement of the method of private ownership of the common land or open space (the intent herein is to guarantee that ownership and taxation of common land be equitably apportioned to individual owners for his/her lot/unit and common land);

- c. Covenants permanently restricting the common land or open space from any future subdivision;
 - d. Easements and right-of-ways over property to remain in private ownership (e.g. drainage, conservation, utility easements, etc.);
 - e. Rights to drain onto or across other property, whether public or private, including a street; and
 - f. Performance Guarantee as detailed in section 4.9.01. (9/7/93) (08/02/2012)
- 4.7.02. Deeds covering any land to be used for public purposes, easements, right-of-ways over property to remain in private ownership, right to drain onto or across private property shall be submitted to, and approved by the Selectboard with approval of Town Counsel or any other appropriate Town agency or agent.
- 4.7.03. All documents required hereunder shall be submitted in final, executable, recordable form satisfactory to the Brookline Town Counsel as part of the Final Phase.
- 4.7.04. Information on the open space land included as part of an open space development to ensure its perpetual protection shall be submitted as part of the approval process. This shall include any deeds, covenants or easements used to protect the common open space. A notation in the notes section of the plan should also be included indicating how the open space is to be protected and maintained. (9/7/93)

Section 4.8. Roads

Any subdivision which requires road system layout and construction shall have such improvements installed in accordance with the following:

- 4.8.01. Road Construction Specifications as specified in Appendix A.
- 4.8.02. The subdivider, developer, or his successors shall elect to comply with option (1) or option (2) as listed below and so notify the Planning Board prior to commencement of construction:
- Option (1). The road system shall be built according to the Current Specifications as stated in section 4.8.01 and accepted by the Town in the approved manner and deeded to the Town prior to the issuance of any building permit for any structure whose frontage would include any part of the proposed road system. This option carries a requirement to file a Performance Guarantee for the road top course, drainage, curbs and sidewalks as well as a Maintenance Guarantee for the maintenance of the entire road system. (8/21/97) (08/02/2012)
- Option (2). Upon provision of suitable financial guarantees acceptable to the Planning Board and town Counsel, building permits may be issued on any portion of a road covered by such Performance Guarantee or funding; however, no building permits shall be issued until the four (4) inch crushed gravel layer has been installed and approved by the Town's Consulting Engineer. The Performance Guarantee shall include separate itemized amounts for the completion of the base course and the top course. (8/21/97) (08/02/2012)
- 4.8.03. Until the road has been accepted, the subdivider, developer, or his successors shall be responsible for the maintenance of the streets, including winter maintenance of snow plowing, sanding, and other protection, which obligation shall be made part of the requirements of the Performance Guarantee. If required by the Planning Board or Selectboard, the developer shall provide a written agreement to undertake this maintenance with suitable sureties to guarantee performance. The road shall be posted "PRIVATE WAY" until accepted by the town. (9/7/93) (08/02/2012)
- 4.8.04. **As-Built plans and profiles, including plans requirements by the Town Engineer, shall be submitted before any consideration of roadway acceptance.** Upon satisfactory completion of the road system to such specifications as required by the approved plan, the Selectboard and Town's Consulting Engineer, said road system will be presented to the Selectboard, for acceptance. (8/21/97) (08/02/2012) **(2021)**.
- 4.8.05. Except for roads designated as private roads, all roads shall be properly deeded by the applicant to the Town of Brookline by a Warranty Deed or other suitable instrument as determined by the Planning Board or Town Counsel. (09/16/2010). (08/02/2012)

- 4.8.06. A Maintenance Guarantee needs to be filed once the work specified in the Performance Guarantee is completed and the road is accepted by the Planning Board and the Selectboard. (9/7/93) (08/02/2012)
- 4.8.07. Before acceptance of any legal deeds by the Town, the subdivider, developer, or his successors shall provide the Town with a Maintenance Guarantee for a period of two (2) years. (08/02/2012)

Section 4.9. Financial Guarantees

- 4.9.01. Prior to the issuance of a building permit, a Performance Guarantee or other surety shall be submitted to the Planning Board (for filing with the Selectboard), by the subdivider, developer, or his successors, in an amount sufficient to cover the cost of construction or completion of streets, utilities, public improvements, drainage structures, traffic signals, setting road bounds and bounds at all angles of individual lots, public parks or public recreation areas or other such improvements as required by the Board as shown on the Final Plat.(11/15/07) (08/02/2012) (09/17/2015)
- 4.9.02. Requirements of the Performance Guarantee shall identify, precisely, the work to be performed, the standards by which satisfactory performance shall be judged. The Consulting Engineer shall determine whether or not there has been satisfactory performance and shall be part of the Final phase approval.(08/02/2012)
- 4.9.03. This Performance Guarantee may be reviewed by Town Counsel and approved or disapproved as to compliance with the requirements and sureties by the Planning Board. (8/21/97) (08/02/2012)
- 4.9.04. As phases or portions of the secured improvements or installations are completed and approved by the Planning Board or its designee, the Town shall partially release said security to the extent reasonably calculated to reflect the value of such completed improvements or installations. (9/7/93)
- 4.9.05. After completion of a road system, or other improvements as required by the Board, a Maintenance Guarantee shall be filed with the Planning Board in such amount as to indemnify and save harmless the Town of Brookline from all claims, loss, damage, or expense of any kind involved in the maintenance of such system or improvement for a period of two (2) winter seasons from the date of road acceptance by the Selectmen, or a lesser term if approved by the Planning Board in consultation with the Consulting Engineer and/or Road Agent. (11/7/95) (8/21/97) (08/02/2012)

This amount should ~~not exceed 10% of the total estimate or be less than the~~ **be between 10% and 20% of the total roadway construction cost**, in an actual amount needed to complete the guaranteed improvements and installations. Various estimates, including actual contractual and competitively bid costs, should be compared by the Planning Board in consultation with the Consulting Engineer and/or ~~Road Agent~~ **Department of Public Works Director** to ensure that the most appropriate amount in setting the Maintenance Guarantee is used. (08/02/2012) (2021)

The Planning Board is responsible for recommending the release of the Maintenance Guarantee when the time period established has expired. (9/7/93) (8/21/97) (08/02/2012)

- 4.9.06. **Performance/Maintenance Guarantee:** A surety provided through a cash savings account held by the Town of Brookline or a local regulated financial institution, by a Letter of Credit issued by a local regulated financial institution, or through a bond issued by a regulated insurance company authorized to do business in the State of New Hampshire. The Letter of Credit format must be approved by Town Counsel and must include a “self-calling” provision: ***“If thirty (30) days before expiration, the issuer has not been advised in writing by the town of Brookline that all improvements and/or maintenance guaranteed by the letter of credit have been satisfactorily complete, the surety is automatically called fifteen (15) days prior to expiration. In such an event, the issuing institution shall immediately, without any action on the part of the town, forward payment to the Town of Brookline in the amount of the Performance/Maintenance Guarantee”.*** All Bonds must include a notification provision whereby BOTH the Planning Board AND the Selectboard receive any cancellation notices. All bonds must either be issued by a domestic New Hampshire insurance company or contain specific terms subjecting the issuer to the jurisdiction of New Hampshire Courts and to new Hampshire law other than “choice of law” provisions. All surety packages shall include language or a document explicitly authorizing the Town of Brookline to take ownership of the Guarantee proceeds upon any default by the applicant or successor in interest or any

violation of Planning Board approval. All surety packages shall also include language or a document that, upon an event of default, explicitly grants the Town of Brookline the right to enter onto the subject private property in order to complete the work set forth and required by the Planning Board approval. (08/02/2012)

Section 4.10. Design for Open Space

- 4.10.01. Where a proposed park, playground, or other open space shown on the Master Plan is located in whole or part in a proposed subdivision, the Board shall require substantial compliance with such master plan.
- 4.10.02. If not shown on the master plan, all subdivisions of twenty (20) acres or greater, and any other subdivisions which may produce a need for more open space and/or recreational areas within the community, may be required to provide one suitably located area as a park, playground, or other open space if this open space area is necessary to provide recreational open space for the subdivision's residents (5/9/89).
- 4.10.03. ***There are two approaches to determining the number of allowable lots in an open space development. The applicant may choose either method a. or method b.:***
- a. Develop a preliminary conventional plan, showing at least:***
- (i) Site specific soils, major wetlands areas, steep slopes (9/05/02)***
 - (ii) Preliminary road locations***
 - (iii) Lot areas in square feet and/or acres***
 - (iv) Amount of wetlands and non-wetlands***
 - (v) Number of lots to be created***
 - (vi) Floodplain data***
- After reviewing this design review plan to ensure that it is likely to meet the zoning for a conventional subdivision, the Planning Board will allow the applicant to propose an open space development with the number of lots which the Planning Board deems acceptable under the above conventional plan.***
- a. The applicant may use a general 1 unit per 80,000 square foot calculation, subtracting out slopes greater than 25% and wetlands. For this calculation, the applicant must present a plan showing:***
- (i) Site specific soils, major wetlands areas, steep slopes (9/05/02)***
 - (ii) Amount of wetlands and non-wetlands***
 - (iii) Floodplain data***
- (Moved from Section 4.6.04 which was out of place) 2021.***
- 4.10.04. Areas set aside for parks, playgrounds, or open space shall be dedicated to the town for public use.
- 4.10.05. Whenever such dedication of land is required, the land shall be left in an acceptable state, clear of construction debris.
- 4.10.06. The Planning Board shall consult with the Recreation and Conservation Commissions as to the suitability of a proposed park or playground.
- 4.10.07. In the case of open space development, open space shall be not less in area than as provided in the Zoning Ordinances.
- 4.10.08. Such areas of open space, whether privately owned (as a result of Zoning Ordinances) or publicly owned (as a result of dedication to the Town), shall have a sufficient legal description and restrictions recorded in the Hillsborough County Register of Deeds Land Records to assure permanence of use as open space.

- 4.10.09. Open space land in private ownership shall be protected in such a way that it will assure operation or maintenance of the land in an orderly manner suitable for the purpose intended.
- 4.10.10. On land to be used as recreation space, undesirable growth and debris shall be removed. Wooded and brook areas shall be left in their natural state.
- 4.10.11. Recreation open spaces shall be graded properly to dispose of surface water and shall be seeded with lawn grass.
- 4.10.12. If an area, not to exceed one (1) acre, is to be used for the purpose of burying stumps, boulders, and other natural waste, it shall be designated on the Final Plat with appropriate State approvals.
- 4.10.13. This area must be filled in on an "as you go" basis and finally covered with at least four (4) inches of topsoil and seeded with lawn grass or other suitable ground cover such that the area is protected from erosion and is as close to its natural condition as possible two (2) years after the seeding.
- 4.10.14. There shall be no deposition, dumping, or storage of waste, or other natural or man-made material, supplies, or equipment on any subdivision land designated as open space excepting that specifically designated for the disposal of natural waste as described above.
- 4.10.15. No work, removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from the original condition until a site plat, prepared by the surveyor or engineer licensed by the State of New Hampshire, shall have been approved by the Board.

Section 4.11. Trees and Plantings

- 4.11.01. Due consideration shall be given to the preservation of existing features, trees, scenic points, and other natural historic resources within subdivisions.
- 4.11.02. The Board may require additional tree planting and other landscaping appropriate to the area being developed.
- 4.11.03. Removal of topsoil or surplus materials from the subdivision area shall not be permitted unless in accordance with the Zoning Regulations.
- 4.11.04. Existing trees on lots and open space land shall be preserved wherever feasible, unless otherwise directed by the Board.
- 4.11.05. Proper permits for cutting must be obtained.

Section 4.12. Open Space Development

- 4.12.01. If allowed in the Zoning Ordinances, a subdivision plat may be designed for open space development, provided all requirements of the Zoning Ordinances and the Subdivision Regulations are met.
- 4.12.02. As noted in section 3.1.32 and ~~4.6.04~~ **4.10.3**, it is strongly encouraged that an open space development goes before the Planning Board in an optional phase. This will allow the Planning Board to determine the maximum number of lots allowable in the proposed open space development. **[Please, note that the above-mentioned section 4.10.3 is the section that was removed from 4.6.04, and move to 4.10, renumbering existing sections] (2021)**

This optional phase will present the applicant an opportunity to demonstrate why an open space development may not be appropriate on this site. (9/7/93)
- 4.12.03. The 50-foot perimeter setback, or a value as deemed necessary by the Planning Board, is a buffer between the structures in the open space development and any adjacent parcels. This area should include natural vegetation where it exists, or appropriate landscaping where there is no natural buffer. This buffer may include part of any house lot and/or the common open space. (9/7/93) (09/16/2010).
- 4.12.04. Open space land in an open space development shall be permanently protected through easement or deed or homeowners association. (9/7/93)

- 4.12.05. Open space as part of an open space development shall be left in an acceptable state, if possible, clear of construction debris. A pre-conveyance open space conservation easement deed shall be recorded and shall have an easement sunset upon conveyance to the Town or homeowners association. (9/7/93) (07/16/2020)

Section 4.13. Phasing

- 4.13.01. The Board may specify the extent to which the particular subdivision may be developed in any given year, and establish the maximum duration of time for the total development of the proposed subdivision in order to assure harmonious development of the town.

Section 4.14. Hours of Construction

- 4.14.01. All road construction activities related to plans approved by the Board shall take place within the hours of 7 a.m. to 7 p.m., except for Saturdays, Sundays and federal holidays when construction activities shall occur within the hours of 9 a.m. to 5 p.m., unless otherwise modified by the Board. (8/21/97)

SECTION 5. ROAD AND UTILITY STANDARDS

Section 5.1. Street Design

- 5.1.01. ~~Proposed streets shall be in harmony and conformance with existing and proposed streets, as shown on the Municipal base map.~~ **The town does not have such maps (GIS). (2021)**
- 5.1.02. Street patterns shall give due consideration to contours and natural features.
- 5.1.03. Where required by the Board, provision shall be made for the extension of the street pattern to abutting and adjacent property by merely the indication on the plat of a sufficiently wide area of undeveloped land to provide future potential access.
- 5.1.04. Every proposed street in a subdivision shall be laid out and constructed as required by these regulations.
- 5.1.05. Where a subdivision abuts an existing street with an inadequate alignment, or right-of-way width, the subdivision plat shall include in the street dedication all land needed to meet the standards established by these regulations, and as approved by the Board.
- 5.1.06. Dead-end streets shall not exceed twelve hundred (1,200) feet in length and shall terminate with a minimum turn around of one hundred fifty (150) feet in diameter, i.e. seventy-five (75) feet from the center of the turn around to the outside of the right-of-way or a hammerhead with a minimum of 55 feet on each leg as measured from the centerline of the street. The length of the dead-end street shall be measured along the center line from the edge of the street, for the entire length of the road, including the turn around (5/9/89). (11/15/07)
- 5.1.07. Where land for future extensions to another outlet is approved by the Board, and where indicated on the plat, the full width of the right-of-way to the subdivision property line shall be deeded to the Town.
- 5.1.08. The intersection of any street shall have a corner rounding at the property line with a radius of one half (1/2) the width of the right-of-way.
- 5.1.09. The plat of any proposed subdivision shall show work required to connect and complete the improvements and utilities between the proposed street pattern and any connecting street in an existing subdivision.
- 5.1.10. All streets shall be constructed and paved, and all bridges, culverts, drainage structures, storm sewers, gutters, drainage ditches, and other improvements required by the subdivision plat and accompanying documents shall be installed in conformance with the Standards and Specifications as set forth in section 4.8.
- 5.1.11. All street intersections shall have all season safe sight **distance which should be connected to designated speed limits.** ~~of four hundred (400) feet~~ in both directions. (2021)
- 5.1.12. All season safe sight distance is defined as a line which encounters no visual obstructions between two points, each at a height of three (3) feet nine (9) inches above the pavement, and so located as to represent the critical line of sight between the operator of a vehicle using the access and the operator of a vehicle approaching from either direction.

Section 5.2. Drainage

- 5.2.01. An adequate surface storm water drainage system for the entire subdivision area shall be provided, based upon a 25-year storm event. (8/21/97)
- 5.2.02. Storm drainage shall be carried to existing water courses or connected to existing storm drains.
- 5.2.03. If the storm water drainage system creates any additional peak rate flow over any adjacent property, the subdivider shall obtain an easement therefore from the adjacent owner and shall hold the Town of Brookline harmless from any claims for damage resulting therefrom. (8/21/97)
- 5.2.04. **In general, drainage shall be discussed with the Town Engineer and shall be based on New Hampshire Stormwater Manual for both peak flow rates and volumes. (2021)**

Section 5.3. Utilities

- 5.3.01. The Board may require the installation of street lighting meeting Town requirements in any subdivision where it deems them appropriate and/or necessary, especially at the intersection of a subdivision road, way, drive, street or any other mean of access with an arterial or collector road. All required new street lights are done at the sole cost of the developer. All applications, including a single lot subdivision, which include the creation of a new or upgraded road, way, drive, street, driveway, or any other mean of access to a created lot for a new subdivision shall have underground utilities, installed according to specifications set by the appropriate utility companies. A new driveway shall have underground utilities the entire way to the house. If a single new lot is across the street from an existing utility pole, overhead wires could be used, if desired by the developer/homeowner, from the end of the new driveway to the house. Utilities shall be located a minimum of seventeen (17) feet off the centerline of the roadway pavement. Utilities shall be located so as not to conflict with new or existing roadside drainage systems. (8/21/97) (6/18/09) (9/17/15) (07/16/2020)

Section 5.4. Street Names

Please, refer to section 4.6.06 (i).

- 5.4.01. ~~No street names can begin with the letter Z. (This is for emergency purposes, as the dispatching system uses the letter "Z" for other purposes.) (9/7/93)~~
- 5.4.02. ~~Names of proposed streets and roads cannot be duplicated nor bear phonetic resemblance with existing street names in the community; all streets will, as far as practical, follow past practice of naming streets after long time Brookline families, residents, or geographic features. The Brookline Historical Society should be contacted for assistance. (9/7/93) (2021)~~

Section 5.5. Site Reclamation Standards for On-Site Stump Burial

- 5.5.01. The Planning Board or its designee shall periodically inspect subdivision operations and shall perform a final reclamation inspection in order to ensure that the approved plans have been followed.
- 5.5.02. No slope in soil material shall be left steeper than 3:1 (three horizontal feet for each one foot of vertical drop) unless it can be demonstrated by the applicant that a steeper grade can be adequately vegetated and stabilized. Under no case shall a soil material slope be left steeper than 2:1.
- 5.5.03. All debris, boulders, etc. shall be lawfully disposed of in a manner acceptable to the Regulator or its designee.
- 5.5.04. Ground levels and grades shall be established as shown on the approved reclamation plan to a maximum of 6 feet above the existing grade. Reclamation shall be completed as soon as practical but no later than one year after burial.
- 5.5.05. Reclaimed area shall be backfilled with 18" to 24" of select material above top level of stumps. Stockpiled topsoil shall be spread over select material to a 4-6" depth to allow and maintain vegetation. Additional topsoil may be brought onto the site if required by the Planning Board or its designee for proper reclamation. The disturbed area(s) shall be fertilized, if necessary, and seeded with a grass or grass-legume mixture.
- 5.5.06. Plantings in accordance with an approved reclamation plan shall be protected from erosion during an appropriate establishment period by mulch and structural erosion control devices. No area shall be left in such a condition that erosion of the area after completion of the work may result in water pollution by silt or other deleterious substances.
- 5.5.07. Upon completion of the reclamation operations, the topography of the land shall be left so that water draining from the site leaves the property according to the approved reclamation plan.
- 5.5.08. Unless waived in writing or otherwise stipulated by the Planning Board, areas adjacent to the stump burial **(which location shall clearly noted on a recorded subdivision plan)**, including access points, from which trees have been removed shall be planted with two-year old plants or plants furnished under a standard nursery order. Type of plants selected shall be included in Trees and Shrubs in New Hampshire –

A Guidebook for Natural Beauty Projects (Extension Bulletin No. 163, revised, published May 1980 by the Cooperative Extension Service of the University of New Hampshire, Durham, New Hampshire.) Seedlings without center buds or seedlings with pruned roots will not be accepted. **(2021)**

- 5.5.09. The applicant shall provide a reclamation plan with the Subdivision Application. On-site stump burial and reclamation plans shall comply with all requirements of these regulations and State of NH Requirements, as amended.

(Section 5.5 adopted 5/6/99)

SECTION 6. ADMINISTRATION AND ENFORCEMENT

Section 6.1. Modification

- 6.1.01. The requirements of the foregoing regulations may be modified when, in the opinion of the Board, specific circumstances surrounding a subdivision, or condition of the land in such subdivision, indicate that such modification will properly carry out the purposes and intent of the Master Plan and of these regulations.

Section 6.2. Acceptance of Streets

- 6.2.01. Nothing herein is intended to modify the requirements of the law with reference to the acceptance of streets by the Town. Nothing herein is intended to modify or control the construction, reconstruction, or extension of roads by the Town or State.

Section 6.3. Other Regulations

- 6.3.01. Where these regulations are in conflict with other Local or State Ordinances, the more stringent shall apply.

Section 6.4. Enforcement

- 6.4.01. These regulations shall be enforced by the Selectboard or its duly authorized representative.

Section 6.5. Violations and Penalties

- 6.5.01. If, during the course of execution of a subdivision, the subdivider, developer, or his successors shall violate the conditions of the subdivision approval, Zoning Ordinances, or the Subdivision Regulations of the Town of Brookline, the Planning Board may notify the Selectmen of such violation and request that no further building permits be issued until the violation has been satisfactorily corrected.
- 6.5.02. As per RSA 676:16, any owner, or agent of the owner of any land located within a subdivision who transfers or sells any land before a plat of the subdivision has been approved by the Board and filed in the Office of the Register of Deeds shall forfeit and pay a penalty of Five Hundred (500) Dollars for each lot or parcel so transferred or sold; and the description by metes and bounds in the instrument of transfer or other document used in the process of selling or transferring shall not exempt the transaction from such penalties.

Section 6.6. Appeals

- 6.6.01. Any person aggrieved by an official action of the Board, may appeal therefrom to the Superior Court as provided by RSA 677:15.

Section 6.7. Validity

- 6.7.01. If any Section, Subsection, or phrase of these subdivision regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of these regulations.

SECTION 7. DRIVEWAY REGULATIONS

This section should be removed as the Selectboard / DPW Director are working, with Town Staff, to create a Driveway Town Ordinance.

Driveway Permits application forms are already available at the DPW office as the Director is managing the permits and inspection since 2020.

Once removed, possibly keep a note stating that the Driveway Regulations have been replaced with a Driveway Town Ordinance dated xxxxxx available at the Selectboard and DPW Office.

Pursuant to the provisions of RSA 236:13, the following driveway regulations are hereby established for the Town of Brookline, NH and shall comply with the Zoning and Land Use Ordinance, Section 1800.00, Driveway Ordinance. (11/15/07). In March 2022, Amend the Section 1800.00 to refer to the new Town Driveway Ordinance.

Section 7.1. Purpose

7.1.01. The purposes of these regulations are as follows:

- a. In as much as driveways and entrances are, in effect, intersections, they require certain controls as to size and location in order to provide safe and efficient access to property fronting on the road, as well as to provide for the proper and suitable discharge and control of surface drainage in and around said driveway.
- b. Ensure public safety through the orderly control of traffic movement onto and from highways, streets, and roadways.
- c. Provide a uniform practice and procedure relative to the design and construction of driveway entrances and exits.
- d. Enhance the access to buildings and properties for emergency services. (11/15/07)

Section 7.2. Definition

7.2.01. The term "driveway" is defined as an improved or unimproved area serving as an entrance, exit, or approach from any street or to any parcel of land, regardless of public or private ownership.

Section 7.3. Design Features (11/15/07) (10/16/2014)

Any newly constructed driveway shall be constructed in a manner to ensure public safety, accessibility for all emergency vehicles and to keep water away from the public way with adequate drainage and slopes. This shall be accomplished by constructing the driveway in the following manner:

- a. Approach to the public way shall be as near 90 degrees as possible.
- b. Maximum grade shall be ten (10) percent with the Building Inspector and the Fire Department approval and at the discretion of the Planning Board.
- c. Grade shall be pitched away from the public way for the first five (5) feet.
- d. The driveway shall be paved fifteen (15) feet from the edge of existing pavement or to the property line, whichever distance is less.
- e. Culverts or water crossings must comply with Section 6 of Appendix A: *Road Construction Specifications* of these regulations.
- f. For driveways one thousand (1,000) feet or more in length, the issuance of a driveway permit will require a drainage plan by a New Hampshire licensed engineer, or other source acceptable to the Building Inspector, to ensure that stormwater and spring meltwater will not result in erosion, endanger the integrity of the driveway surface, or cause siltation of drainage systems or surface waters.
- g. (Section removed 07/16/2020)

Section 7.4. Permit and Penalty

- 7.4.01. Anyone desiring to construct, alter or relocate a driveway in order to obtain access to an existing or proposed street or roadway, shall first apply for and obtain a permit from the Building Inspector's Office, which permit shall provide for the construction, alteration or relocation of such driveway in accordance with the following specifications.
- 7.4.02. No construction of any driveway shall be allowed without such permit.
- 7.4.03. Anyone violating the provisions of this regulation may be punished by a fine not to exceed fifty (\$50) dollars for each offense and may be enjoined from causing vehicular traffic to traverse any part of town property to gain access to the town road from other property.

Section 7.5. Common Driveways (Section amended 06-15-2000 – Revised 11-15-2007 – 10-16-2014)

Common driveways will be permitted in the Town of Brookline in accordance with the following specifications. The common driveway is defined as that portion of the driveway that provides access to two or more individual parcels. The common driveway becomes a private access at the point at which it provides access to one parcel. A plan and profile shall be prepared by a licensed professional engineer and submitted for approval by the Planning Board.

- 7.5.01. Number of Lots. A maximum of four (4) lots can be served by one (1) common driveway.
- 7.5.02. Length. The common portion of the driveway shall not exceed 1,200 feet in length. A turnaround for emergency vehicles shall be provided at the end of the common driveway. (11/15/07).
- 7.5.03. Design. Common driveways shall be designed and built in accordance with the approved subdivision plan to allow for the passage of all vehicles expected to use the driveway year-round.
- The traveled way shall be a minimum of fourteen (14) feet with three-foot maintained shoulders on each side. (9/05/02).
 - Maximum grade shall be ten (10) percent with the ~~Building Inspector~~ **DPW Director** and the Fire Department approval and at the discretion of the Planning Board. (2021).
 - Minimum grade shall be 0.5 percent.
 - Grades at intersecting roadways shall not exceed 3 percent for the first thirty (30) feet from the sideline of the intersecting edge of pavement.
 - The driveway may be gravel or paved. A minimum gravel base of twelve inches (gravel shall have no aggregate larger than 6 inches) shall be required. An additional two (2) inch wearing surface shall be dense, graded, crushed stone for all common driveways.
 - The driveway shall be paved fifteen (15) feet from the edge of existing pavement or to the property line, whichever distance is lesser.
 - Culverts or water crossings must comply with Section 6 of Appendix A: *Road Construction Specifications* of these regulations.
 - For driveways one thousand (1,000) feet or more in length, the issuance of a driveway permit will require a drainage plan by a New Hampshire licensed engineer, or other source acceptable to the ~~Building Inspector~~ **DPW Director** to ensure that stormwater and spring meltwater will not result in erosion, endanger the integrity of the driveway surface, or cause siltation of drainage systems or surface waters. (2021).
 - Grade shall be pitched away from public ways for the first five (5) feet.
- 7.5.04. Common Driveway Identification. ~~For~~ All common driveways, **regardless of how many homes they serve, shall have** a permanent granite marker, of minimal dimensions five (5) feet in height from grade level, two (2) feet in width and seven (7) inches in depth, **and** shall be placed two and one half (2.5) feet below grade level at the end of the driveway where it meets the public way. The marker shall be single faced and placed at an optimal angle and location to the road. The granite marker shall be engraved with a diagram of the driveways showing locations and street numbers. The bottom edge of the diagram shall be

a minimum of 30 inches above the finished grade. Should the common driveway split, a permanent granite marker complying to the above regulations, indicating which homes are located on either side of the split, must also be placed at the intersections. ~~For common driveways serving three (3) or more lots:~~ All common driveways ~~serving three (3) or more lots~~ shall be designated a “Way”, with the name and house numbering as designated by the Brookline Emergency Management Director. In addition to the granite marker, a standard Town street sign must also be placed at the entrance to the “Way” **prior to the issuance of a Certificate of Occupancy by the Building Inspector.** (6/03/04) **(2021)**

- 7.5.05. Guarantee. Reference Section 1800.00, Driveway Ordinance, of the zoning ordinance for bonding requirements. (08/02/2012)
- 7.5.06. Inspections. ~~The~~ All common drives shall be inspected by the Town Engineer to ensure the use of the required materials and proper construction. Any cost for engineering inspections shall be borne by the applicant as set forth in section 3.1.22, Procedure and Appendix B of the Subdivision Regulations. (11/15/07) **(2021)**.
- 7.5.07. Building Permits and Certificates of Occupancy. The common driveway must be complete up to a point fifteen feet beyond the common access point, between the home and the Town road, including drainage, crushed gravel and grading, and all identification markers must be installed prior to the issuance of a building permit. The Certificate of Occupancy for the last building shall not be issued until after a final satisfactory inspection report is submitted to the Planning Board, **the DPW Director**, and the Building Inspector by the Town Engineer. (08/02/2012) **(2021)**.

Section 7.6. Easement and Performance Guarantee – For Single and/or Common Driveways

- 7.6.01. The applicant may, at the discretion of the Selectboard, as a condition of the granting of the permit, be required to provide to the Town of Brookline, an easement to the extent deemed necessary by the said Selectboard for the purposes of entering upon the premises of the applicant to control or maintain surface drainage and to do all things necessary for and incidental to such drainage. To that end, and where appropriate and necessary, in the discretion of the Planning Board, the applicant may be required to provide a Performance Guarantee in such sum as is deemed necessary for the proper construction of such culvert, piping, ditching or other efforts incidental to and necessary for the proper discharge and control of surface and subsurface drainage in and around the vicinity of the proposed driveway, both on the property of the applicant or on the property of the Town. (11/19/91) (8/21/97) (08/02/2012)

Section 7.7. Fees

- 7.7.01. No permit shall be issued until a payment of a fee, which fee shall be established from time to time by the Selectboard as they see fit, said fee to be paid to the Town of Brookline.

(Section 7 adopted 5/9/89 – Last revision: **Date xxxxx 2021**)