

RULES AND REGULATIONS  
GOVERNING THE SUBDIVISION  
OF LAND IN  
EGREMONT, MASSACHUSETTS

(Adopted under the Subdivision Control Law,  
Section 81-K to 81-GG inclusive  
Chapter 41, G.L.)

Adopted: August 18, 1965

Revised: February 9, 1988

Revised: February 13, 2009

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RULES AND REGULATIONS  
GOVERNING THE SUBDIVISION OF LAND  
EGREMONT, MASSACHUSETTS

(Adopted under the subdivision Control Law,  
Sections 81-K to 81-GG inclusive,  
Chapter 41, G.L.)

PURPOSE

"The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases, parks and open areas. The powers of a planning board and of a board of appeal under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws and with their purpose; for securing adequate provision for water, sewerage, drainage and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions and for maintaining the character of the community. It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of such board if said plan conforms to the recommendation of the board of health and to the reasonable rules and regulations of the planning board pertaining to subdivisions of land; provided, however, that such board may, when appropriate, waive, as provided for in section 81-R, such portions of the rules and regulations as is deemed advisable." (Section 81-M of Chapter 41, General Laws)

I. AUTHORITY

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

II. EFFECT

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 approved and endorsed by the Planning Board as hereinafter provided.

### III. GENERAL

#### A. DEFINITIONS

"SUBDIVISION" shall mean the division of a tract of land into two or more lots and shall include re-subdivision, and, when appropriate to the context, shall be related to the process of subdivision of the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet. 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 on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a Subdivision." (Section 81-L of Chapter 41, General Laws).

"PRELIMINARY PLAN" shall mean a plan of a proposed subdivision or re-subdivision of land drawn on tracing paper, or a print thereof, showing (a) the subdivision name, boundaries, north point, date, scale, legend and title "Preliminary Plan"; (b) the names of the record owner and the applicant and the name of the designer, engineer or surveyor; (c) the names of all abutters, as determined from the most recent local tax list; (d) the existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner; (e) the proposed system of drainage, including adjacent existing natural waterways, in a general manner; (f) the approximate boundary lines of proposed lots, with approximate areas and dimension; (g) the names, approximate location and widths of adjacent streets; (h) and the topography of the land in a general manner." (Section 81-L of Chapter 41, C.L.)

"DEFINITIVE PLAN" shall mean the plan of a proposed subdivision or resubdivision of land prepared and submitted in accordance with Section III.B. to the Planning Board for approval to be recorded in the Registry of Deeds or filed with the Land Court when approved and endorsed by the Board, and such plan when approved and recorded; all as distinguished from a Preliminary Plan.

"MAJOR STREET" within a subdivision, a major street is one which may either carry through traffic, from place to place, or serve as the entrance or principal circulation street within that subdivision.

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"MINOR STREET" within a subdivision, a minor street is used mainly to provide access to abutting lots and is not used for through traffic.

#### B.SUBMISSION OF PLANS

Any person who wishes to submit a plan to be endorsed "Approval Not Required", approved as a "Preliminary Plan" or approved and endorsed as a "Definitive Plan" shall submit his plan application to the Planning Board at a regularly scheduled meeting of the Planning Board for determination of completeness of the application by the Board. If sent to the Planning Board by delivery or registered mail to the Egremont Planning Board, it shall be placed on the agenda of the first regularly scheduled meeting of the Board following its receipt for determination by the Board of the completeness of the application.

1. The Board shall examine the application for completeness as required by their Regulations and if complete, shall vote to accept the application as submitted, notify the applicant and Town Clerk in writing of their action and date the application as accepted for submission.
2. The date of acceptance of the submission shall be considered the filing date. The subsequent review of the application shall determine the accuracy, completeness and acceptance of the information contained therein.
3. Should the Board determine that the application is not complete and does not contain all of the elements required, they shall, by vote, not accept the application for submission and state in their vote the reasons for their action. The application shall be returned to the applicant with copies of said vote, the Town Clerk informed in writing of the Board's action; and there shall be no further consideration of the application, which shall be considered as not submitted.

**Egremont Planning Board  
PO Box 368  
South Egremont, MA 01258**

February 13, 2009

Mrs. Margaret Muskrat, Town Clerk  
PO Box 156  
South Egremont, MA 01258

Dear Mrs. Muskrat,

Please be informed that after a Public Hearing on February 9, 2009, duly published in the Berkshire Record on January 23, 2009, and January 30, 2009, the Planning Board at its regular meeting on February 9, 2009, voted unanimously to adopt the following changes to the Rules and Regulations Governing the Subdivision of Land in Egremont, Massachusetts:

III.C.2. The fee for a plan submitted for "Approval Not Required" shall be fifty dollars (\$50) for the first division of land plus twenty-five dollars (\$25) for each additional division of land on the plan.

III.C.3.a. The fee for a Preliminary Plan shall be two hundred fifty dollars (\$250) plus fifty dollars (\$50) per lot.

b. The fee for a Definitive Plan if a Preliminary Plan has been submitted shall be five hundred dollars (\$500) plus seventy-five dollars (\$75) per lot plus fifty dollars (\$50) each additional unit beyond one unit per lot, as described in Section IV.B.2.h.

c. The fee for a Definitive Plan if a Preliminary Plan has not been submitted shall be one thousand dollars (\$1000) plus one hundred fifty dollars (\$150) per lot plus one hundred dollars (\$100) each additional unit beyond one per lot, as described in Section IV.B.2.h.

IV.B.2.d. Lines of existing and proposed streets, ways, lots, easements and indication of purpose of easements, and public or common areas within the subdivision. (The proposed names of proposed streets shall be shown in pencil until they have been approved by the Planning Board.)

IV.B.2.h. Proposed number of residential and commercial units, with each individual residential unit whether in a single, double, or multi-family dwelling counting as a single residential unit and each commercial use on a lot counting as a single commercial unit.

Attached please find two separate copies of the above changes which we ask you to certify for our records and for filing with the Registry of Deeds. Please return these two certified copies to the Planning Board.

Thank you.

Sincerely,

Eileen P. Vining, Chair

**Changes to Rules and Regulations Governing the Subdivision of Land  
in Egremont, Massachusetts  
Adopted by the Egremont Planning Board February 9, 2009**

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IV.B.2.h. Proposed number of residential and commercial units, with each individual residential unit whether in a single, double, or multi-family dwelling counting as a single residential unit and each commercial use on a lot counting as a single commercial unit.

### C. FEES AND COSTS

1. There shall be a minimum non-returnable filing fee for each plan application submitted to the Board for consideration, which fee shall be paid upon submission of the plan.
2. The fee for a plan submitted for "Approval Not Required" shall be twenty-five (\$25.00) dollars.
3. The fee for a Preliminary Plan or for a Definitive Plan if a Preliminary Plan has not been submitted shall be fifty (\$50.00) dollars plus twenty (\$20.00) dollars per lot, payable to the Town of Egremont.
4. All expenses for advertising, mailing, notices, secretarial services, engineering and professional planning review, borings and tests as deemed necessary by the Planning Board, plans, construction, inspection, recording and filing of documents and all other expenses in connection with a Preliminary Plan and Definitive Plan and development of a subdivision shall be borne by the applicant and shall be in addition to the filing fee.
5. The applicant shall place a sum in escrow with the Egremont Planning Board and the Town of Egremont to be used for the payment of these costs. The amount will be determined by the Planning Board based on estimates made by the Board from similar subdivisions and shall be added to as needed, within thirty (30) days of a request by the Planning Board. Any amount remaining in the escrow account after all such bills are paid and action on the plan has been taken shall be returned to the applicant.
6. Failure of the applicant to comply with the requirements of this Section shall be deemed adequate cause for disapproval of the plan.
7. Upon endorsement of a Definitive Plan, the developer shall place a sum in escrow with the Egremont Planning Board and the Town of Egremont in an inspection account to be used for the payment of inspection costs in accord with the inspection schedule. The amount will be determined by the Planning Board based on estimates made from similar subdivisions and shall be added to as needed, within thirty (30) days of a request by the Planning Board.

D. PLAN BELIEVED NOT TO REQUIRE APPROVAL AS A SUBDIVISION (ANR)

1. SUBMISSION

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 his plan does not require approval under the Subdivision Control Law may submit his plan together with two (2) copies thereof and application Form A (see Appendix) to the Planning Board accompanied by the necessary fee and evidence to show that the plan does not require approval. Said person shall file, by delivery or registered mail, a notice with the Egremont Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. If the notice is given by delivery, the Egremont Town Clerk shall, if requested, give a written receipt therefore.

2. CONTENTS

In addition to the information commonly contained in plans of land prepared for recording in the Registry, such plans shall show:

- a. That each lot on the plan and any parcel altered by the plan meets the requirements of the Zoning By-Law as to minimum area and frontage, and that the required frontage is on:
  - 1) A public way or a way which the Town Clerk certifies is maintained and used as a public way, or
  - 2) A way shown on a plan which has previously been approved and endorsed by the Planning Board in accordance with the Subdivision Control Law, or
  - 3) A way in existence when the Subdivision Control Law became effective and having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction. (See Section 81-L of Chapter 41 of the General Laws for details.)
- b. The location of any structures on lots created by the plan and on parcels of land altered by it; and
- c. Any zoning district boundaries established by the Zoning By-Law.

OR
- d. That the plan represents an existing parcel with no new lot lines and is so certified by a registered land surveyor.

### 3. DETERMINATION

- a. In determining whether a plan complies with the purpose of the Subdivision Control Law as to the provision of adequate access to all of the lots by ways which are safe and convenient to travel, the plan must show, among other things, that buildable parts of lots are accessible from their respective borders from the way shown on the plan, and that there is no intent to provide access to any lot by a way not shown on the plan which would constitute a subdivision within the meaning of the Subdivision Control Law.
- b. In determining whether a way has been used and maintained as a public way, the Town Clerk shall submit to the Board written evidence of public maintenance under vote of the town and of continued substantial use by the general public without permission of the landowners along the way, continuous for at least 20 years.
- c. In determining whether any existing way is adequate to qualify a plan as not constituting a subdivision, the Board shall consider the following conditions, among others:
  - 1) Is the right-of-way at least 40 feet wide and of reasonable horizontal alignment?
  - 2) Does the existing horizontal and vertical alignment of the roadway provide safe visibility?
  - 3) Is the traveled way constructed at least eighteen (18) feet wide, with at least eight (8) inches of gravel, and with adequate provisions for drainage?
  - 4) If the road could ever serve more than two dwelling units, is the surfacing adequate without further improvements by the town?

### 4. BOARD ACTION

If the Board finds that the plan does not require approval, it shall forthwith, without a public hearing and within twenty-one (21) days of submission, endorse on the plan by a majority of the Board or by a person authorized by the Board the words "Planning Board Approval Under Subdivision Control Law Not Required" or words of similar import with appropriate name or names signed thereto. Such endorsement shall not be withheld

unless such plan shows a subdivision. Said plan shall be returned to the applicant.

If the Board determines that the plan does require approval under the Subdivision Control Law, it shall, within twenty-one (21) days of submission of said plan, give written notice of its determination stating the reasons the plan does require approval under the Subdivision Control Law to the Town Clerk and to the applicant. Said plan shall be returned to the applicant.

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

#### IV. PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS FOR SUBDIVISIONS

A subdivision plan shall be considered as submitted to the Planning Board when delivered at a regularly scheduled meeting of the Board or when sent by certified or registered mail to the Planning Board, care of the Town Clerk, together with properly filled out application form, required filing fee, all required plans, data and supporting documents. Board action regarding acceptance of the plan or filing shall then be in accordance with Section III.B. above.

##### A. PRELIMINARY PLAN

###### 1. GENERAL

A Preliminary Plan of a residential subdivision may be and of a non-residential subdivision must be submitted by the subdivider to the Planning Board and to the Board of Health and the Conservation Commission for discussion and approval, modification or disapproval by each board. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, the Board of Health and the Conservation Commission, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case. A properly executed application form B (see Appendix) shall be filed with the Preliminary Plan submitted to the Planning Board.

The applicant shall file by delivery or registered mail a notice with the Egremont Town Clerk stating the date of submission for such approval of a Preliminary Plan and accompanied by a copy of the completed application Form B and evidence that the required filing fee has been paid.

The applicant must submit an affidavit that he will comply with the requirements of Sections III.C..4. and III.C.5.

## 2. CONTENTS

The Preliminary Plan shall be drawn on tracing paper with pencil at a suitable scale and four (4) prints shall be filed at the office of the Planning Board and one print at the office of the Board of Health. Said plan shall be identified as a Preliminary Plan and show all the information described under the definition of the Preliminary Plan so as to form a clear basis for discussion of its problems and for preparation of the Definitive Plan. During discussion of the Preliminary Plan, the complete information required for the Definitive Plan and the financial arrangements will be developed.

## 3. APPROVAL

The Planning Board may give such Preliminary Plan its approval, with or without modification. Such approval does not constitute approval of a subdivision.

## 4. DISAPPROVAL OF A PRELIMINARY PLAN

In the event of a disapproval of a Preliminary Plan, the Planning Board shall state the reasons for its disapproval in accord with Section 81-U of Chapter 41, G.L. and the original of the plan shall be returned to the applicant. The applicant and the Town Clerk shall be notified, in writing, forthwith, of the Board's action.

## 5. FAILURE OF THE BOARD TO ACT

If the Board fails to act upon a plan submitted under this section or fails to notify the Town Clerk and the person submitting the plan of its action within forty-five (45) days after the Board's acceptance of the submission for filing, it shall be deemed to have approval under the Subdivision Control Law and the Planning Board shall forthwith make such endorsement on said plan, and on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

## B. DEFINITIVE PLAN

### 1. GENERAL

Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval and endorsement shall file with the Board the following:

- a. An original drawing of the Definitive Plan and five (5) contact prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval.

- b. A properly executed application Form C (See Appendix).
- c. The applicant shall file by delivery or registered mail a notice with the Egremont Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed application Form C and evidence of payment of the filing fee.
- d. An affidavit signed by the applicant that he will comply with the requirements of Sections III. C. 4., III. C. 5. and III. C. 7.

## 2. CONTENTS

The Definitive Plan shall be prepared by a professional civil engineer and land surveyor registered in Massachusetts and shall be clearly and legibly drawn in black India ink upon tracing cloth, Mylar or similar substance.

The plan shall be at a scale of one inch equals forty (40) feet or such other scale as the Planning Board may accept to show details clearly and adequately. Sheet sizes shall preferably not exceed 24" x 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following data:

- a. Subdivision name, boundaries, north point, date and scale.
- b. Name and address of record owner, subdivider and engineer or surveyor.
- c. Names of all abutters as they appear in the most recent tax list, and certified for correctness by the clerk of the Board of Assessors.
- d. Lines of existing and proposed streets, ways, lots, easements, and public or common areas within the subdivision. (The proposed names of proposed streets shall be shown in pencil until they have approved by the Planning Board. )
- e. Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line, and to establish these lines on the ground.
- f. Location of all permanent monuments properly identified as to whether existing or proposed.

- g. Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision.
- h. Indication of purpose of easements.
- i. Suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board (or officially authorized person).

Items j, k and l may be submitted on the same sheet as the Definitive Plan or on separate sheets.

- j. Existing and proposed topography at two (2) feet contour intervals and by symbols the highest known high water mark of the last five (5) years. There will also be indicated by differentiating symbols the contour line four (4) feet above said high water mark.
- k. Existing profiles on the exterior lines and proposed profile on the center-line of proposed streets at an horizontal scale of one (1) inch equals forty (40) feet and vertical scale of one (1) inch equals four (4) feet, or such other scales acceptable to the Planning Board. (All elevations shall refer to Egremont datum.)
- l. Proposed layout of storm drainage, water supply and sewage disposal systems.
- m. Location of flood hazard areas, wetlands and groundwater recharge areas, if any. Any plan of a subdivision in a Flood Plain District, as delineated in the Town's Zoning By-Law, greater than ten (10) lots or five (5) acres, whichever is lesser, shall provide base flood elevation data.
- n. Overall plan for drainage of surface water, including plans and specifications for the Control of erosion and sedimentation of both temporary and, permanent nature, if such controls are deemed necessary by the Planning Board. Drainage calculations prepared by a Registered Professional Engineer shall be submitted in a suitable form to substantiate proposed drain pipe sizes along with amplifying plans outlining drainage areas within and/or affecting the subdivision. A plan shall also be submitted showing the route followed by all drainage discharging from the subdivision to the primary receiving watercourse or other large body of water. Drainage design shall be based on the methods contained in the United States Soil Conservation Service Urban Hydrology for Small Watersheds, Technical Release Number 55 which may be obtained from the Soil Conservation Service.

- o. Grading Plan which shall indicate proposed street grades and elevations, building site grades and elevations and drainage patterns throughout the subdivision sufficient to determine the approximate

balance between cut and fill. There shall be a general note indicating the disposition of topsoil on the site, which note shall include how topsoil will be handled in areas of cut and fill; how soil will be stockpiled, if applicable; the minimum amount of topsoil to be redistributed to the site; and that no topsoil will leave the site except in accord with Egremont regulations.

p. Directly above or below the layout plan of each road, a profile showing existing and proposed grades along the centerline and sidelines of that road, together with figures of elevation at the top and bottom of all even grades and at twenty-five (25) foot intervals along all vertical curves. Intersecting roads shall be clearly indicated on the profile. The horizontal scale of the profiles shall be forty (40) feet to one (1) inch and the vertical scale shall be four (4) feet to one (1) inch. Only one road plan and profile shall be drawn on a sheet except by permission of the Planning Board.

q. Location and species of trees intended for preservation within the road rights-of-way.

fo

r. Any other information pertaining to the natural characteristics of the site that may be needed in the opinion of the Planning Board, the Board of Health or the Conservation Commission for determination of the suitability of the land for the purposes proposed shall be furnished at the applicant's expense.

s. An environmental impact statement including all information in Section IV. B. 3.

### 3. ENVIRONMENTAL IMPACT STATEMENT

With the definitive plan, the applicant shall also submit a statement of environmental impact, the purpose of which is to enable the officials of the Town to determine what methods are used by the Applicant to promote the environmental health of the community and to minimize the adverse effects on the natural resources of the Town.

It is the developer's responsibility to prepare and document the environmental impact study in sufficient detail to permit an adequate evaluation by the Planning Board; however, additional data may be requested in writing by the Board. The personnel preparing the report must be of suitable professional experience,

acceptable to the Board, and where necessary licensed to practice in Massachusetts. All personnel preparing the report must be identified and their professional qualifications listed.

The Planning Board may waive any section, or sections, of the Statement which it deems inapplicable to the proposed project. The developer should discuss the requirements with the Board prior to preparation of the Statement, preferably prior to the submission of a tentative plan.

The statement shall include the following:

a. PHYSICAL ENVIRONMENT.

- 1) Describe the general physical conditions of the site, including amounts and varieties of vegetation, general topography, unusual geologic, scenic and historical features, trails and open space links and indigenous features.
- 2) Describe how the project will affect these features
- 3) Provide a complete physical description of the project, and relationship to surrounding area.

b. SURFACE WATER AND SOILS.

- 1) Describe location, extent and type of existing water and wetlands, including existing surface drainage characteristics, both within and adjacent to the project.
- 2) Describe the methods to be used during construction to control erosion and sedimentation; i.e. use of sediment basins and type of mulching, matting, or temporary vegetation; describe approximate size and location of land to be cleared at any given time and length of time and exposure; covering of soil stockpiles; and other control methods used. Evaluate effectiveness of proposed methods on the site and on the surrounding areas.
- 3) Describe the permanent methods to be used to control erosion and sedimentation. Include description of
  - a) any areas subject to flooding or ponding;

- b) proposed surface drainage system;
  - c) proposed land grading and permanent vegetative cover;
  - d) methods to be used to protect existing vegetation;
  - e) the relationship of the development to the topography;
  - f) any proposed alterations of shore lines, marshes or seasonal wet areas;
  - g) any existing or proposed flood control or wetland easements;
  - h) estimated increase of peak runoff caused by altered surface conditions, and methods to be used to return water to the soils.
- 4) Completely describe sewage disposal methods. Evaluate impact of disposal methods on surface water, soils and vegetation.

c. SUB-SURFACE CONDITIONS.

- 1) Describe any limitations on proposed project caused by sub-surface soil and water conditions, and methods to be used to overcome them.
- 2) Describe procedures and findings of percolation tests conducted on the site.
- 3) Evaluate impact of sewage disposal methods on quality of sub-surface water.

d. TOWN SERVICES.

- 1) Describe the estimated traffic flow at peak periods and the proposed circulation pattern.
- 2) Describe the locations and the number of vehicles accommodated in parking areas.
- 3) Describe the effect of the project on police and fire protection services.
- 4) Describe the effect of the project on public works department services.

- 5) Describe the effect of the project on educational services.
- 6) Describe the effect of the project on the Town water supply and distribution system.
- 7) Describe the fiscal impact, to include the potential changes in Town tax revenue and changes to the Town in the cost of providing services.

e. HUMAN ENVIRONMENT.

- 1) Provide a tabulation of proposed buildings by type, size (number of bedrooms, floor area), ground coverage, and a summary showing the percentage of the tract to be occupied by buildings, parking and other paved vehicular areas, and usable open space.
- 2) Describe type of construction, building materials used, location of common areas, location and type of service facilities (laundry, trash, garbage disposal).
- 3) State proximity to transportation, shopping and educational facilities.
- 4) Describe proposed recreational facilities, including active and passive types; and age groups participating, and state whether recreational facilities and open space are available to all residents.

f. GENERAL IMPACTS.

- 1) Summarize briefly environmental impact on entire town with supporting reasons.

4. REVIEW BY BOARD OF HEALTH AS TO SUITABILITY OF THE LAND

- a. At the time of filing of the Definitive Plan, the subdivider shall also file with the Board of Health, two contact prints of the Definitive Plan, dark line on white background. The Board of Health shall within forty-five (45) days after filing of the plan, report to the Planning Board in writing, approval or disapproval of said plan.

If the Board of Health disapproves said plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include

such specific findings and the reasons therefore in such report and, where possible, shall make recommendations for the adjustment thereof. Every lot so located that it cannot be served by a connection to the municipal sewer system, shall be provided with a septic tank and drain field satisfactory to the Board of Health. In such areas it shall be the responsibility of the subdivider or his agent to provide sufficient information to prove that the area for each lot is adequate to permit the installation and operation of an individual sewage disposal system (septic tank and a drain field). Such information shall consist of a report of a health officer regarding seepage and other tests as may be required. (See State Environmental Code including 310 CMR 15:00 covering percolation tests). The subdivider or his agent may be required to provide the necessary equipment and labor for making these tests.

- b. Based on the recommendation of the State Department of Public Health or the Town's Board of Health, where due to restrictive water, soil, topographic, geologic or other existing conditions, the proposed development is of a density which exceeds the sustaining capacity of the proposed lots in terms of individual sewage-disposal systems and wells on each lot, the Planning Board may require that the developer revise his plan to provide either:
  - 1) A consolidated water-supply system, and/or
  - 2) A consolidated sewage-disposal system, and/or
  - 3 An increase in lot size so that individual wells and sewage-disposal systems may have adequate areas in which to function properly on the same lot
- c. The Board of Health may require as a condition of subdivision approval that a performance bond or deposit of money or negotiable securities be furnished by the subdivider to guarantee the construction of surface-drainage improvements recommended by the Board of Health and that all required improvements shall be made without undue erosion, siltation, or flooding of traveled ways, and without causing any condition of public nuisance through dust or surface drainage, or any act of negligence by the subdivider or his agents during the periods of construction. Such performance guarantee may be released only after completion of the work to the satisfaction of the Board of Health. In viewing possible drainage problems, the Board of

Health is not limited to lots as shown on the subdivision plan, but may in appropriate cases consider areas outside the proposed subdivision.

- d. Land subject to flooding, and wetland areas as shown on the Egremont Zoning Map, or land deemed by the Board of Health not suitable for building sites, shall not be approved by the Planning Board for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard. Such land within the proposed subdivision shall be set aside for such uses as shall not be endangered by periodic or occasional inundation, or shall be improved in a manner satisfactory to the Planning Board and the Board of Health to remedy said hazardous condition.

#### 5. PUBLIC HEARING

- a. Before approval, modification and approval, or disapproval of the definitive plan is given, a public hearing shall be held by the Planning Board, notice of the time and place of which and of the subject matter, sufficient for identification, shall be given by the Planning Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of Egremont, once in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing, the second publication being not less than seven (7) days before the day of such hearing and by posting such notice in a conspicuous place in the Town post offices for a period of not less than fourteen (14) days before the day of such hearing, and by mailing a copy of such advertisement to the applicant and to all owners of land abutting upon the land included in such plan as appearing on the most recent tax list.
- b. The applicant and his engineer or surveyor shall be present at the public hearing.
- c. A hearing by the Conservation Commission may be required under the provisions of the Wetland Protection Act, Chapter 131, Section 40 of the General Laws.

#### 6. PERFORMANCE GUARANTEE

Before the endorsement of its approval of a definitive plan of a subdivision by the Planning Board, the subdivider shall agree to complete the required improvements (construction of ways and installation of municipal services) specified in section VI for any lots in a subdivision, such construction and installation

to be secured by one, or in part by one and in part by the other, of the following methods which may from time to time be varied by the applicant:

a. FINAL APPROVAL WITH BONDS OR SURETY

The subdivider shall either file a performance bond or a deposit of money or negotiable securities in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements specified in Section VI, not covered by a covenant under "b" hereof or by a Tri-Partite agreement under "c" hereof. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Town Counsel and shall be contingent on the completion of such improvements within the period of time specified by the Planning Board. If the required improvements are not completed within the set period of time, the Planning Board may require an estimate of the cost of the remaining work, increase the amount of performance bond, and establish a new date for the completion of said improvements. Failure of the developer to complete the improvements within the set period of time or any extension thereof, shall not relieve the developer from his obligation to pay for increased costs for completing the improvements in excess of his performance bond.

b. FINAL APPROVAL WITH COVENANT

The subdivider shall file a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services as specified in Section VI, not covered by bond or deposit under "a" hereof or by Tri-Partite agreement under "c" hereof, shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed.

c. FINAL APPROVAL WITH TRI-PARTITE AGREEMENT

The subdivider shall deliver to the Planning Board an agreement (Tri-Partite) executed after the recording of a first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made to the applicant by the lender, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of funds (otherwise due the Applicant) sufficient in the opinion of the Planning Board to secure the construction of ways and the installation of municipal services. Said agreement shall also provide a schedule of disbursements which may be made to the applicant upon completion of various stages of the

work, shall provide that prior to release of any funds, the completion of the work to the satisfaction of the Town shall be verified by inspection, and shall further provide that in the event that the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available to the Town for completion.

#### 7. REDUCTION OF BOND OR SURETY

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

#### 8. RELEASE OF PERFORMANCE GUARANTEE

Upon the completion of improvements required under Section VI, surety for the performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect to any lot, the subdivider, may orally request and agree on terms of release with said Planning Board, or he may send by registered mail to the Town Clerk a written statement in duplicate that the said construction or installation in connection with such bond, deposit or covenant has been given, has been completed in accordance with the requirements contained under Section VI, such statement to contain the address of the applicant, and the Town Clerk shall forthwith furnish a copy of said statement to the Planning Board. If the Planning Board determines that said construction or installation has not been completed, it shall specify in a notice sent by registered mail to: the applicant and to the Egremont Town Clerk the details wherein said construction and installation fails to comply with the requirements in Section VI. Failure of the Planning Board to act on such application within forty-five (45) days after the receipt of the application by the Town Clerk, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such covenant shall become void. In the event that said forty-five(45) day period expires without such specification, or without the release and return of the bond or return of the deposit or release of the convenient as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

Before the final release by the Planning Board of the Town's interest in a performance bond, deposit, covenant, or Tri-Partite agreement, the applicant shall file with the

Board a certificate (Form) by a registered Massachusetts professional civil engineer and land surveyor declaring that streets, storm drains and all other construction on the ground has been properly completed in accordance with plans approved by the Board.

For the purpose of protecting the safety, convenience and welfare of the Town's inhabitants; for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for reducing the danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic and other emergencies; under the authority of Chapter 41, Section 81M as amended, the applicant or his successor shall provide for the proper maintenance and repair of improvements under this Section of the Rules and Regulations during the construction and for the period of eighteen (18) months after the completion of the construction of said improvements and the release of security or until the Town votes to accept such improvements, whichever comes first. Such maintenance shall include snow removal beginning at the time of occupancy of an individual owner or tenant other than the developer.

#### 9. CERTIFICATE OF APPROVAL OR DISAPPROVAL

a. Before final approval of the plan the Board shall establish that the lots in the definitive plan are in conformity with the Egremont Zoning By-Law. Failure of the lots to so comply will be adequate grounds for disapproval of the definitive plan. See Chapter 41, Section 81-Q of the General Laws, and amendments thereto. The Board may, as a condition of granting a permit under Section 81-Y, impose reasonable requirements designed to promote the health, convenience, safety and general welfare of the community and to benefit the Town. In such event the Board shall endorse such conditions on the plan to which they relate, or set forth a separate instrument attached thereto, to which reference is made on such plan and which shall, for the purpose of the subdivision control law, be deemed to be a part of the plan. Before final approval all necessary permits under Chapter 131 of the General Law and from the Massachusetts Department of Public Works shall be obtained, and the applicant shall notify the Planning Board of any changes in the plan required by said permit or permits.

b. The action of the Planning Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Town Clerk and sent by delivery or registered, return receipt requested, mail

to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for its action and shall rescind such modification and/or disapproval if the plan is amended to conform to the reasons for said Planning Board action and resubmitted to the Board within seven (7) months of the date of said action. Failure of the Applicant to so resubmit within the stated seven (7) month period shall void the plan and application. Any further action on a plan involving the area or any part thereof shall require a new Application in accord with the Rules and Regulations in force at the time of the new Application. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Planning Board but not until the statutory twenty (20) day appeal period has elapsed following the filing of the Board's Certificate of Approval on Form C-1, or Disapproval on form C-2, as the case may be, with the Town Clerk and said Clerk has notified the Board that no appeal has been filed. After the Definitive Plan has been approved and endorsed, the Planning Board shall return the original to the applicant.

- c. Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision, nor does it indicate in any way compliance with the provisions of the Wetland Protection Act, Chapter 131 Section 40 of the General Laws"
- d. The endorsement of plan approval by the Planning Board shall be valid for a period of two (2) years from the date of said approval or such other period of time as is specified. Prior to the expiration of the said approval period, the developer and/or owner shall request, in writing to the Planning Board an extension of time, if necessary. Failure to request extension of time prior to the expiration of the said approval period shall result in the Planning Board notifying the Building Inspector that no additional building permits should be issued in said development. The request for extension shall state the reasons for said extension and also the length of time requested. Extension of time shall not in any case exceed one (1) year. Additional extensions after the first may be applied for but not until at least ten (10) months have expired on the extension in effect.

10. FAILURE TO THE BOARD TO ACT

- a. If the Board fails to act upon a Definitive Plan for a non-residential subdivision submitted under this

section or for a residential subdivision for which a Preliminary Plan was submitted and acted upon by the Board, or forty-five (45) days have elapsed since the submission of the Preliminary Plan and the Board has taken no action thereon or fails to notify the Town Clerk and the persons submitting the plan of its action, within ninety (90) days after its submission, or, within one hundred and thirty-five (135) days after its submission for all other subdivisions, whichever is applicable, it shall be deemed to have approval under the Subdivision Control Law, and the Planning Board shall forthwith make such endorsement on said plan, and on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.

- b. The Planning Board may extend the ninety (90) day period or the one hundred and thirty-five (135) day period, whichever is applicable, permitted by statute between submission of a Definitive Plan and action thereon upon written request of the applicant.

#### 11. SUBMISSION OF DOCUMENTS \_

Easements and performance guarantee in the form of deposit, bond, covenant, and/or Tri-Partite agreement, shall be submitted within twenty (20) days from the date of approval of the Definitive Plan to the Planning Board, which then shall submit the documents to the Town Counsel for approval as to form and legality.

#### 12. FILING OF PLANS IN REGISTRY OF DEEDS OR LAND COURT

- a. Approval of all subdivisions is subject to the condition that, unless an appeal has been taken from such approval as provided by statute, the subdivider will record the subdivision plan in the Berkshire Southern District Registry of Deeds, or the Land Court, within six (6) months from the date of its approval, and furnish a copy of the recorded plan to the Planning Board. If the applicant delays recording of such plan past the required six month period, such plan shall not be accepted for recording by the Registry of Deeds or Land Court unless and until it has endorsed thereon, or recorded, therewith and referred to thereon, a certificate of the Planning Board, or the Town Clerk, dated within thirty (30) days of such recording, that the approval has not been modified, amended or rescinded, nor the plan changed. Such certificate shall, upon application, be made by the Board or the Town Clerk unless the records of the Board or Town Clerk receiving the application show that there has been such modification, amendment, rescission or change.

- b. The applicant shall notify the Planning Board in writing presenting evidence of the recording of the plan and all covenants within ten (10) days of said filing. The applicant shall deliver to the Planning Board two (2) copies of the approved and recorded Definitive Plan, one (1) 105 mm negative or 1/2 scale reduction of the plan and one (1) copy of a Certificate of Title duly searched and executed by an attorney or title company stating that the title to the premises shown on said plan and appurtenances thereto is in the name of the applicant and free of all encumbrances, or including an affidavit giving full details of all encumbrances.

## V. DESIGN STANDARDS

### A. STREETS

#### 1. LOCATION AND ALIGNMENT -

- a. All streets in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain maximum livability and amenity of the subdivision. Design shall be such as to minimize cut and fill.
- b. The proposed streets shall conform, so far as practicable, to the Master or Study Plan as adopted in whole or in part by the Planning Board.
- c. Provision satisfactory to the Planning Board shall be made for proper projection of streets, or for access to the adjoining property which is not yet subdivided.
- d. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips shall be in the public interest.
- e. Street jogs with centerline offsets of less than one hundred twenty five (125) feet should be avoided.
- f. The minimum centerline radii of curved streets shall be one hundred (100) feet. Greater radii may be required for principal streets.
- g. Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.

- h. Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than thirty (30) feet.
- i. Each lot in a subdivision must be served by an approved way lying within the Town bounds.
- j. A new paragraph j. will be added regarding soils as soon as the new County soil study is available.
- k. Where the street system within a subdivision does not connect with or have, in the opinion of the Board, adequate access from a Town, County or State (public) way, the Board may require as a condition of approval of a plan, that such adequate access be provided by the subdivider, and/or that the subdivider make physical improvements to and within such a way of access, in accord with the provisions of Section V. of these regulations, from the boundary of the subdivision to a Town, County or State way.
- l. Where the physical condition or width of a public way from which a subdivision has its access is considered by the Board to be inadequate to carry the traffic expected to be generated by such subdivision, the Board may require the subdivider to dedicate a strip of land for the purpose of widening the abutting public way to a width at least commensurate with that required within the subdivision, and to make physical improvements to and within the subdivision. Any such dedication of land for the purpose of way and any such work performed within such a public way shall be made only with 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.

## 2. WIDTH

- a. The minimum width of street rights-of-way shall be fifty (50) feet. Greater width shall be required by the Planning Board when deemed necessary for present and future vehicular travel.

## 3. GRADE

- a. Grades of roads shall be not less than one-half (1/2%) percent. Grades shall not be more than five (5%) percent for major streets nor more than eight (8%) percent for minor streets. The grade of a road within fifty (50) feet of a road intersection shall not exceed one (1%) percent to provide a level area for traffic safety.

- b. The grade of any street except in special instances shall be so designed that the surface run-off of water shall be from the building line to the street. Where one side of a street drops off so that surface water run-off cannot drain into the street, provision must be shown for drainage tiles and catch basins, with any easement needed, to prevent overflow onto neighboring lots or erosion of banks.
- c. Where a grade is four (4) percent or greater within one hundred and fifty (150) feet of the intersection of street right-of-way lines, there shall be provided in a residential subdivision containing only one (1) family dwellings, a leveling area of at least seventy five (75) feet, with a maximum grade of three (3) percent, and in all other subdivisions, a leveling area of at least two hundred (200) feet, with a maximum grade of two (2) percent. \_
- d. Where curves and grades combine to create potentially dangerous driving conditions, the Planning Board may require a suitable amount of super elevation of the curves or other protection.

#### 4. DEAD-END STREETS

- a. Dead-end roads shall not be longer than five hundred (500) feet, unless, in the opinion of the Planning Board, a greater length is necessitated by topography or other local conditions.
- b. Dead-end streets shall be provided at the closed end with a turn-around having an outside roadway diameter of at least one hundred (100) feet and a property line diameter of at least one hundred fifteen (115) feet.
- c. At the end of a dead-end road, the board may require the reservation of an easement twenty (20) feet wide to provide for the continuation of pedestrian traffic and/or utilities.

#### 5. ENERGY CONSERVATION

To the maximum practicable extent, the road layout and traffic pattern shall be such as to facilitate building orientation for maximum solar access and to minimize travel distances for both residents and service vehicles.-

#### B. EASEMENTS

- 1 Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twelve (12) feet wide.

2. Where a subdivision is traversed by a water course, drainage way, channel or stream the Planning Board may require that there be provided a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such water course, drainage way, channel or stream and to provide for construction or other necessary purposes.

C. OPEN SPACES

Before approval of a plan, the Planning Board may also in proper cases require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land.

D. PROTECTION OF NATURAL FEATURES AND HISTORIC SITE

Due regard shall be shown for all natural features and historic sites, such as large trees, wildlife, stone walls or fences, water courses, scenic points, historic spots and similar community assets which, if preserved, will add attractiveness and value to the subdivision and preserve a town asset. The developer shall make every attempt to adapt his subdivision to the site with the minimum of cutting and filling operations, and shall take whatever protective measures are needed to control erosion, siltation and flooding along drainage ways and adjacent lands.

VI. REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVISION

1. ROADS AND RIGHTS-OF-WAY

1. The entire area of each road right-of-way shall be cleared of all stumps, brush, roots, boulders, like materials and all trees not intended for preservation. No trees may be preserved within eight feet of the edge of the traveled way.
2. The full length and width of the traveled way shall be excavated or filled, as necessary, to a depth of at least fifteen (15) inches below the finished surface as shown on the profile, where paving is to be applied; or to a depth of at least twelve (12) inches below the finished surface as shown on the profile, where the surface will be gravel. However, if the soil is soft and spongy, or contains undesirable material such as clay, sand pockets, peat or any other material detrimental to the subgrade, such material shall be removed and replaced with suitable well-compacted material.

3. All parts of the traveled way shall have a base consisting of at least twelve (12) inches of well-compacted gravel to a width of at least twenty-four (24) feet, to be located centrally within the road right-of-way. At each side there shall be a shoulder, also consisting of well-compacted binding gravel at least twelve (12) inches deep.

The gravel base shall consist of two layers. The first layer shall be eight (8) inches thick, after compaction, and shall contain no stones larger than four (4) inches in any dimension, and shall meet the gradations of subsection M 1.03.0 in the Massachusetts Department of Public Works "Standard Specifications for Highways and Bridges," 1973 edition. The top layer shall be four inches thick after compaction, and shall be processed gravel meeting the specifications of subsection M 1.03.1 of the DPW's "Standard specifications" aforementioned.

Each layer of gravel shall be rolled with a self-propelled roller weighing not less than ten (10) tons, and shall be compacted to the satisfaction of the Town Road Superintendent or other agent designated by the Planning Board.

4. In subdivisions with ten (10) or more lots, or the potential for such development, all roads shall be paved to a width of at least twenty-four (24) feet in the following manner: Over the completed gravel base specified above, a bituminous concrete mixture shall be applied by a paving machine in two (2) courses consisting of a binder or base course one and one half (1 1/2) inches thick after compaction, followed by I surface coat one and one half (1 1/2) inches thick after compaction. All the paving is to be in conformity with the Massachusetts Department of Public Works specifications for Type I-1 bituminous concrete, both in quality of materials and methods of application. In no case shall the paving be laid until the gravel base has been compacted and written approval of the completion of the base has been signified by the Town Road Superintendent or other agent designated by the Planning Board.
5. In subdivisions with fewer than ten (10) lots, depending upon probable traffic and proposed road grades, the Planning Board will consider proposals for road surfaces other than bituminous concrete for all roads or for portions of roads. For a road serving only several lots, a graveled way prepared as in Section VI.A.3 above, could be deemed adequate by the Board. For roads serving as many as nine lots, alternate surfacing such as tar-and-grits, cold-mix asphalt or other low-dust and low-

maintenance treatments will be considered by the Board upon preparation of appropriate technical data, subject however to approval and supervision of installation by the Town Road Superintendent or agent designated by the Board. The provisions of Section VI.A.3 shall prevail for all subdivision roads whether paved or unpaved.

The subdivider shall repair any settlement or imperfections in the work done under Sections VI.A.3, VI.A.4, and VI.A.5 during a period of one year from the date of final installation of paving or other surfacing.

B. SURFACE DRAINAGE.

1. Adequate disposal of surface water shall be provided. Catch basins and culverts shall be built in conformity with specifications of the Selectmen on both sides of the roadway on continuous grades at intervals of not more than four hundred (400) feet, at low points and sags in the roadway, and near the corners of the roadway at intersecting streets.
2. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist previous to, or as a result of, the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be designed so as to prevent any erosion, siltation or flooding of traveled ways or adjacent property.
3. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Selectmen or the Town Road Superintendent shall approve the design and site of the culvert or facility based on anticipated runoff from a one hundred (100) year storm under conditions of total potential development permitted by the Zoning By-law in the watershed.
4. The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Selectmen or the Town Road Superintendent. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload any existing downstream drainage facility, or cause erosion, siltation or flooding, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.

5. Any proposed subdivision in a Flood Plain District, as delineated in the Zoning By-law, shall be designed to provide adequate drainage and minimize any potential flood damage. Public utilities and facilities in flood-hazard areas shall be so located and constructed as to minimize or eliminate flood damage and avoid impairment from flood waters.

#### C. UTILITY WIRES

1. All utility wiring and cables for television signals, as well as transformers and other distribution and control devices, shall be buried in the ground unless, in the opinion of the Planning Board, estimates made by utility companies indicate that an unreasonable cost would be imposed on the subdivider.
2. Cables and utility wires, other than those going across roads and those leading directly to individual installations, shall be buried within the road right-of-way in a strip four and one half (4 1/2) feet wide running parallel to the edge of the right-of-way, unless soil or terrain require a different location. No wires or cables may be installed under the traveled portion of the right-of-way except where crossing a road, and there ducts must be used.
3. Copies of plans showing the location of all buried pipes, wires and cables are to be presented by the subdivider before any paving of roads is started, one copy to be filed with the Planning Board, one with the Town Clerk, and one with Selectmen.
4. If underground installation is found by the Planning Board to be unreasonably costly to the developer, all overhead cables and wires and related equipment shall be centered as much as possible on the rear or side lot lines, unless this provision is waived by the Board. Easements shall be provided as outlined in Section V B.

#### D. MONUMENTS

1. Permanent monuments shall be installed at all road intersections, at all points of change in the direction or curvature of roads, and at other points where, in the opinion of the Planning Board, permanent monuments may be necessary.
2. The permanent monuments shall be of granite, marble, or 3,000 psi reinforced concrete, and shall measure 5' x 6" x 6" and shall have a suitable reference marker on the top of each.

3. No permanent monuments shall be installed until all construction that would destroy or disturb them is completed. The tops of monuments shall be set to the established grades, and backfill material shall be carefully placed around each monument and thoroughly tamped.

#### E. ROAD-NAME SIGNS

Posts with signs carrying the names of roads or other ways shall be installed at the beginning of all new ways and at the intersection of all ways whether existing or proposed within a subdivision. There shall be at least one such sign and sign post at each intersection. Said signs and sign posts shall follow the specifications of the Selectmen.

#### F. SIDEWALKS AND CURBING

The Planning Board may require construction of curbing and sidewalks on one or both sides of the streets in accordance with specifications of the Selectmen.

#### G. WORK STANDARDS

Unless otherwise specified, all the work and the materials used in the work to be done under these regulations shall conform to the requirements of "The Commonwealth of Massachusetts Department of Public Works Standard Specifications for Highways, Bridges and Waterways", as most recently amended.

#### H. GRADING AND CONSTRUCTION PERMIT

Prior to the commencement of any work in a subdivision involving grading of land, construction of ways, or removal of ground cover, the subdivider or his agent shall file with the Planning Board an application for a Grading and Construction Permit, Form G.

#### I. INSPECTIONS

The Planning Board shall be notified by the subdivider prior to the commencement of each of the major phases of construction; and as each phase is completed, it shall be inspected and approved by the Planning Board prior to starting work in the succeeding phase. The Planning Board, in cooperation with the Selectmen, may designate the Town Highway Superintendent or any other qualified person as inspector for the construction done under these regulations, including the inspection of control measures employed and their effectiveness for the prevention of erosion and siltation. At its discretion, the Planning Board may retain a qualified engineer or other qualified consultant to inspect and to oversee the fulfillment of all

provisions in these Rules and Regulations, the expense thereof to be borne by the subdivider, whether applying to construction of ways or to other provisions of these Rules and Regulations.

#### J. SHADE TREES

Unless at least two (2) shade trees per one hundred (100) feet of lot frontage, of species recommended by the Conservation Commission and having a diameter of at least one inch at a point one foot above the finished grade, exist and can be preserved either within the road right-of-way or within twenty (20) feet of the edge of the right-of-way, the subdivider shall procure and plant at least two nursery-grown shade trees per one hundred (100) feet of lot frontage within twenty (20) feet of the edge of the right-of-way, said trees to be species recommended by the Conservation Commission and measuring at least one inch in diameter at a point approximately four (4) feet above the root collar. The subdivider shall be responsible for maintenance of planted trees and replacement of those which have died or become diseased from the time of planting through one full growing season.

#### K. TOPSOIL, GRADING, DRAINAGE DITCHES

Topsoil shall be placed to a depth of four (4) inches and thoroughly compacted on side slopes within the road right-of-way and over land exposed during grading operations. Grading shall be done carefully to avoid unnecessary damage to existing vegetation. Except when necessary to conform to road, driveway and drainage standards or to eliminate blind intersections or poor sight lines at curves, major earth movements shall be avoided. Drainage ditches wherever possible shall be graded to resemble natural streams. Topsoil shall not be removed from the site except where so authorized by the Planning Board.

#### L. SEEDING

To prevent erosion, shoulders and graded slopes shall be seeded on completion or planted with shrubs or similar approved landscape treatment recommended by the Conservation Commission. Seed and planting specifications shall be in accordance with Section H-3 of the Standard Specifications for Highways and Bridges of the Commonwealth. All new planting within the street right-of-way shall be with good nursery stock and will be subject to inspection after one year. Trees, shrubs or grass found by the Board to be dead or in an unsatisfactory condition within one year from the time of planting may be required to be replaced by the developer.

The following amendments to the Subdivision Rules and Regulations of the Town of Egremont were adopted by unanimous vote of the Egremont Planning Board on April 23, 1991, following a public hearing, under the provisions of MGL Ch. 41. S. 81Q. The public hearing was held on April 23, 1991, after publication of notice in the Berkshire Eagle on April 9 and April 16 and posting in the Egremont Town Hall for two weeks.

Change Section III C 4 to read as follows:

#### **SECTION 4. APPLICATION REVIEW FEES - SPECIAL MUNICIPAL ACCOUNT**

##### **Section 4.1 Intent**

- (a) When reviewing an application for permit/approval the Board may determine that the assistance of outside professional expertise and/or consultants is warranted due to the size, scale or complexity of a proposed project or because of a project's potential impacts.
- (b) The Board may require that applicants pay a 'review fee' consisting of the reasonable costs incurred by the Board for the employment of outside professional expertise and/or consultants engaged by the Board to assist in the review of an application.

##### **Section 4.2 Professional Expertise/Consultants**

- (a) In hiring outside professional expertise and/or consultants, the Board may engage engineers, planners, lawyers, urban designers, regional planning agencies or other appropriate professionals who are qualified and capable of assisting the Board in analyzing a project to ensure compliance with all relevant laws, ordinances/bylaws, and regulations.
- (b) All consultants selected by the Board must meet minimum qualifications consisting of:
  - (1) an educational degree in, or related to the field at issue, from a recognized public or private college or university, or
  - (2) three or more years of practice or experience in the field at issue or a related field.

(c) The selection made by the Board shall be recorded with the Office of the Town Clerk with written notice to the applicant within five business days of the Board's final selection(s).

#### **Section 4.3 Establishment of Special Account**

(a) Funds received by the Board pursuant to this section shall be deposited with the municipal treasurer who shall establish a special account for this purpose.

(b) The following fee schedule shall be adhered to in determining the review fee required for the establishment of the special account.

Preliminary subdivision	\$2,500
Definitive subdivision	\$7,500

(c) If review funds charged are insufficient to cover the costs of outside professional expertise and/or consultant review, the Board may require the applicant to pay an additional review fee to cover these costs provided these costs are reasonable and directly related to the project undergoing review.

(d) Expenditures from this special account may be made at the direction of the Planning Board without further appropriation. Expenditures from this special account shall be made only in connection with the review of a specific project or projects for which a review fee has been, or will be, collected from the applicant.

(e) Failure of an applicant to pay a review fee shall be considered as an incomplete application and therefore not allow the application to go forward.

#### **Section 4.4 Use of Funds**

(a) Review fees may only be spent for services rendered in connection with the specific project for which they were collected. These services shall include, but not necessarily be limited to: project reviews, document reviews, and project-related inspections. Accrued interest may also be spent for this purpose.

(b) If the outside consultant review begins and expenses are generated prior to the filing of a formal administrative appeal, all such expenses, up to the time of appeal, shall be paid out of the special account for that particular project.

(c) At the completion of the Board's review of a proposed project, or at a time determined at the submission of the application/permit, any excess amount in the account, including interest, attributable to a specific project, shall be repaid to the applicant or the applicant's successor in interest.

(d) A final report of the status of said account shall be made available to the applicant or the applicant's successor in interest.

(e) For the purpose of this regulation, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation that legally establishes this succession in interest.

#### **Section 4.5 Method of Appeal**

(a) Any applicant may take an administrative appeal from the selection of the outside professional expert and/or consultant to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications.

(b) Any applicant aggrieved by a selection of an outside consultant may appeal to the Board of Selectmen, provided that such appeal is entered within seven days after such

selection has been made as recorded in the Office to the Town Clerk. An appeal will not be considered valid unless it is formally filed with the Office of the Town Clerk with a copy given to the Board of Selectmen.

- (c) The applicant should notify the Planning Board of its intention to seek a waiver of appeal at the earliest possible time in the review and consultant selection process. If the applicant fails to sign and/or file a formal waiver of appeal, this action will be then viewed as an intention to appeal on the part of the project applicants. Failure to inform the Board of such intention of appeal may result in the delay of start-up of the town outside review services.
- (d) In acting on an administrative appeal, the Board of Selectmen may determine that:
  - (1) a conflict of interest does exist, and/or the consultant does not meet the minimum qualifications, therefore the Board must select another consultant, or
  - (2) a conflict of interest does not exist, and/or the consultant does meet the minimum qualifications, therefore the selection made by the Board stands.
- (e) The required time limit for action upon an application by the Board shall be extended by the duration of the administrative appeal, beginning from the date of filing of such appeal. In the event that no decision is made within one month (30 days) following the filing of the appeal, the selection made by the Board shall stand.

**Section 4.6 Minimum Fees**

<u>Permit/Approval</u>	<u>Suggested Minimum Fee</u>
Subdivision – preliminary	\$2,500
Subdivision - definitive	7,500
Earth/gravel removal	2,500
Multi-family (under 25 units)	3,500
Multi-family (greater than 25 units)	5,000
Commercial (less than 10 acres)	3,500
Commercial (greater than 10 acres)	7,000
Industrial (less than 10 acres)	5,000
Industrial (greater than 10 acres)	10,000
Aquifer	3,500
Detention/retention basins	3,500
Hazardous material	5,000
<u>Other special use/specific</u>	2,500

M. SIDE SLOPES

The slope of the area from right-of-way line to the finished grade of abutting lots shall not be greater than at the rate of one (1) foot vertical to two (2) feet horizontal. Wherever the approved street grade differs substantially from the grade of adjacent land or where otherwise necessary for public safety, the developer shall be required to erect retaining walls or guard rails of a type and size approved by the Planning Board.

N. PROVISION FOR COMPETENT SUPERVISION

The applicant shall provide competent supervision during the development of his subdivision. If at any time, it becomes apparent to the Planning Board that the supervision is not satisfactory, they may order the discontinuance of the development until competent supervision is provided.

This shall include the necessary supervision to make sure that all temporary drainage controls, erosion and sedimentation controls, stock pile controls and other such measures as contained in the approved Definitive Plan are adequately and properly provided and maintained.

O. CLEAN-UP

The entire area of the subdivision must be cleaned up so as to leave a neat and orderly appearance, free from debris and other objectionable material so the subdivider shall be responsible for providing thoroughly clean and unsilted storm-drain lines within the subdivision.

P. FIRE PROTECTION

The applicant shall provide the board with a fire protection plan for the entire development. The plan shall conform to the requirements of the Egremont Fire Department and the standards of the National Fire Protection Association as most recently revised. Improvements required by the approved fire protection plan shall become part of the performance guarantee.

VI. ADMINISTRATION

A. VARIATION

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Law.

B. REFERENCE

For matters not covered by these rules and regulations, reference is made to Section 81-K to 81-GG, inclusive of Chapter 41 of the General Laws.

C. ONE DWELLING PER LOT

Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision or elsewhere in the Town of Egremont without the consent of the Planning Board.

D. BUILDING PERMIT

No building shall be erected within a subdivision without written permission from the Planning Board.

- END -