

Town of Leicester

Subdivision Rules and Regulations



This edition of the Leicester Subdivision Rules and Regulations represents the regulations adopted by the Leicester Planning Board September 19, 1995, as amended May 6, 2003, and September 20, 2006.

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Leicester Subdivision Rules and Regulations

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SECTION I. GENERAL PROVISIONS:

A. AUTHORITY:

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

B. PURPOSE:

These subdivision regulations have been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town by regulating the layout and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and insuring sanitary conditions in subdivisions and in proper cases, parks and open areas.

The powers of the Planning Board and of the Zoning Board of Appeals under these regulations 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 bylaws; for securing adequate provision for water distribution, sewerage, drainage, protection of natural water sources, flood control, wetland areas, and other requirements where necessary in a subdivision; for protecting, promoting and enhancing the natural beauty and amenities of the Town; and for coordinating the ways in a subdivision with each other, with the public ways in the Town and with the ways in neighboring subdivisions.

C. DEFINITIONS:

For the purpose of these Rules and Regulations, the following words and terms used herein are hereby defined or the meaning thereof is explained or limited as follows:

APPLICANT: Either the owner of the land stated in the application for subdivision or all the owners where title is held jointly, in common, or in tenancy by the entirety, including corporations. An agent, representative, or his assign may act for an owner, provided written evidence of such fact is submitted. Evidence in the form of a list of their officers and designated authority to sign legal documents shall be required for a corporation.

APPROVAL: Approval by the Board of a preliminary or a definitive plan of subdivision and may include approval with modifications.

BOARD: The Planning Board of the Town of Leicester.

BOARD OF HEALTH: Shall be the Board of Health of the Town of Leicester.

CONSERVATION COMMISSION: Shall be the Conservation Commission of the Town of Leicester.

DEFINITIVE PLAN: A plan of a proposed subdivision or re subdivision prepared by a registered land surveyor or registered engineer.

DISAPPROVAL: Disapproval shall mean the disapproval of a preliminary or a definitive plan by a majority of the Board. The reasons for disapproval shall be given in writing as required in Section 81s of the Subdivision Control Law.

LOT: An area of land in one ownership, with definite boundaries, used or available for use, as the site of one or more buildings complying with the area, frontage and other requirements of the Zoning By-laws of the Town of Leicester.

MUNICIPAL SERVICES: Shall mean public utilities such as water, gas, sewers, electricity, drainage and fire protection.

OWNER: The owner of record as shown by the records in the Worcester County Registry of Deeds or Land Registry District.

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

PRELIMINARY PLAN: A plan of a proposed subdivision or re subdivision of land, or a print thereof, submitted for approval.

REGISTERED MAIL: Registered Mail shall mean registered mail with return receipt requested.

STREET: A street is that area of land in an existing or proposed way between the lines designating the entire right-of-way and shall include the area intended for vehicular use, curbing, planting strips, sidewalks and median strips, if any.

SUBDIVISION CONTROL LAW: Section 81K to 81GG, inclusive of Chapter 41 of the General Laws, and any acts in amendment thereof, in addition thereto, or in substitution therefor.

D. SUBDIVISION:

The division of a tract of land into two or more lots including re subdivision, and when appropriate to the context, relating to the process of subdivision of the land or territory subdivided; provided, however, that a 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:

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 previously approved and endorsed in accordance with the Subdivision Control Law, or;
3. A way in existence when the Subdivision Control Law became effective in the Town of Leicester having, in the opinion of the 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 bylaw, if any for the erection of a building on such lot. Conveyances or other instruments adding to, taking away from, or changing the size and shape of lots in such a manner as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the Subdivision Control Law went into effect in the Town of Leicester into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.

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

E. LIMITATION OF ONE DWELLING ON ANY LOT:

Not more than one building designed or available for use for dwelling propose shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the Town without the consent of the Planning Board, and such consent will be conditional upon the providing of adequate ways furnishing access to each building site in the same manner as otherwise required for lots in a subdivision.

F. FEES:

All expenses in connection with review and approval of subdivisions, or their construction, shall be borne solely by the applicant. The Planning Board shall establish and may periodically amend a schedule of fees and fee regulations for administration of these Rules and Regulations. No such application shall be considered unless accompanied by the required fee.

SECTION II.

A. PLAN BELIEVED NOT TO REQUIRE APPROVAL UNDER SUBDIVISION CONTROL LAW:

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 prepared by a registered land surveyor or registered engineer, a filing fee established by the Planning Board in accordance with Section I.F. shall be required in cash or check made out to the Town of Leicester, and the application Form A to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination, accompanied by a copy of said application. Such person shall file the original and two (2) copies of the plan with the Planning Board.

It is strongly recommended that any person filing a Form A request with the Planning Board shall also provide, in writing, a statement as to whether there are any development restrictions on any of the lots referred to in the request such as but not limited to Chapter 61, Chapter 61A, or Chapter 61B of the Massachusetts General Law. The Planning Board may require such plans to contain a notation stating that “No determination of compliance with zoning requirements has been made or intended by the Planning Board’s endorsement.”

If the Planning Board determines that the plan does not require approval, it shall within twenty-one (21) days and without a public hearing endorse on the plan the words “Planning Board Approval Under Subdivision Control Law Now Required.” Said plan shall be returned to the applicant and the Planning Board shall notify the Town Clerk of its actions within twenty-one (21) days of receipt of the request.

If the Planning 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 so inform the applicant and return the plan. The Planning Board shall also notify the Town Clerk of its determination.

In determining whether an existing way provides adequate access to qualify a plan as not constituting a subdivision, the Board shall consider the following:

1. Is the right-of-way at least forty (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 roadway constructed at least eighteen (18) feet wide, with at least fifteen (15) inches of gravel, and with adequate provisions for drainage?
4. If the road could every service more than six (6) dwelling units, is it bituminous surfaced or have provisions been made for such surfacing without cost to the town?
5. Have provisions been made for public utilities without cost to the Town?

B. COMPLIANCE WITH ZONING:

No subdivision plan shall be approved by the Planning Board unless the size, shape, width and frontage of all lots within the subdivision comply with the applicable provisions of the Zoning Bylaws.

Developers shall be in compliance with (but not limited to) the Forest Cutting, and Wetland Protection Bylaws and the Clean Fill Zoning By-law of the Town of Leicester (as a reference a copy of each is attached to these subdivision regulations).

SECTION III. PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS:

A. *PRELIMINARY PLAN:*

1. GENERAL:

A Preliminary Plan of a subdivision showing lots in a residential zone may be submitted by the applicant for discussion and approval by the Board. The submission of such a Preliminary Plan will enable the subdivider, the Board, 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 every case. In the case of a nonresidential subdivision, submission of a preliminary plan is required.

Application shall be substantially in the form of Form B, a copy of which is attached to these rules and regulations together with a copy of the preliminary plan and two (2) copies of the Form B. A third copy of Form B and a copy of the preliminary plan shall also be filed with the Board of Health. The petitioner shall be responsible for fees, covering all expenses, as established by the Planning Board in accordance with Section I.F.

Application and plans shall be submitted to the Planning Board at a regular scheduled meeting followed by the filing of a written notice of such submission with the Town Clerk either by hand delivery or registered mail, accompanied by a copy of the completed application.

It is advisable for the applicant to request to be placed on the agenda of the Planning Board prior to said meeting for submittal of preliminary plans in an attempt to lessen the amount of time an applicant may have to wait at a Planning Board meeting in order to be admitted.

Notice shall be published at least 7 days prior to a Planning Board meeting where such Preliminary Plan will be discussed by the Planning Board in a newspaper having a general circulation within the Town of Leicester. The applicant is responsible for the cost of this notice. The purpose of this legal statement is to advise the general public of the Planning Board's intention to review said Preliminary Plan.

2. CONTENTS:

a.) The Preliminary Plan shall be drawn at a suitable scale and the original and thirteen (13) copies shall be filed at a regularly scheduled meeting of the Planning Board. Said Preliminary Plan should show all the information set forth in paragraph "b" below, so as to form a clear basis for discussion of its problems and for the preparation of the Definitive Plan. The thirteen (13) prints will be distributed by the Planning Board to the following:

- 1.) Planning Board Office
- 2.) Town Engineer
- 3.) Zoning Enforcement Officer
- 4.) Police Department
- 5.) Fire Department

- 6.) Highway Department
- 7.) Conservation Commission
- 8.) Zoning Board of Appeals
- 9.) Board of Health
- 10.) Town Clerk
- 11.) Water District
- 12.) Sewer District
- 13.) Historical Commission

b.) “Preliminary Plan” shall mean a plan of a proposed subdivision or re subdivision of land drawn on tracing paper, or a print thereof, showing:

- 1. The subdivision name, boundaries, north point, date scale, between 1 inch = 100 feet and 1 inch = 40 feet, legend and title, “Preliminary Plan”.
- 2. The names of the recorded owner and the applicant, and the name of the designer, engineer or surveyor;
- 3. The names of all abutters, as determined from the most recent tax list;
- 4. The existing and proposed lines of streets, ways, easements and any public area within the subdivision in a general manner;
- 5. The proposed system of drainage, including adjacent existing natural waterways, in a general manner, proposed water, sewer and other underground utilities;
- 6. The approximate boundary lines of proposed lots, with approximate areas and dimensions;
- 7. The names, approximate locations and widths of adjacent streets;
- 8. The topography of the land in a general manner;
- 9. And the approximate boundary lines of proposed lots, with approximate areas and dimensions.

3. PLANS FOR OVERALL PROPOSED DEVELOPMENT:

In the case of a Preliminary Plan of a subdivision covering less than all of the land owned by the subdivider in the area of the subdivision, the Board may request that the Preliminary Plan be accompanied by a plan showing in a general manner, the overall proposed development of all the land owned by the subdivider in the area of the subdivision and indicating the section for which approval is desired.

4. APPROVAL:

The Planning Board may give such Preliminary Plan its approval, with or without modification. Such approval does not constitute approval of a subdivision, but does facilitate the procedure in securing final approval of the Definitive Plan.

Notification of Planning Board's decision will be filed with the Town Clerk and submitted also to the applicant. A copy of the Planning Board's decision on Preliminary Plans submitted should also be submitted to other government entities such as the Fire Department, Police Department, Building Inspector, Health Board, Highway Department or others as determined by the Planning Board from time to time.

B. DEFINITIVE PLAN:

1. GENERAL:

Applications and plans shall be submitted to the Planning Board at a regular scheduled meeting of the Board. Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Planning Board the following:

- a.) Thirteen copies of the plan, to be distributed to the following:
 - 1.) Planning Board Office
 - 2.) Town Engineer
 - 3.) Zoning Enforcement Officer
 - 4.) Police Department
 - 5.) Fire Department
 - 6.) Highway Department
 - 7.) Conservation Commission
 - 8.) Zoning Board of Appeals
 - 9.) Board of Health
 - 10.) Town Clerk
 - 11.) Water District
 - 12.) Sewer District
 - 13.) Historical Commission
- b.) A properly executed application Form C.
- c.) A certified abutters list from the Leicester Assessors' Office. Such abutters list shall include abutters, owners of land directly opposite on any public or private street, and abutters to the abutters within 300 feet.
- d.) A digital version of the plans in AutoCAD .dwg format or other format suitable to the Town of Leicester
- e.) A brief narrative description of the project including a description of any requested waivers (including the specific Subdivision Regulation section numbers).

- f.) The petitioner shall be responsible for fees, covering all expenses, to be established by the Planning Board in accordance with Section I.F.
- g.) Upon application for a modification, alteration or amendment of an existing approved subdivision plan and any accompanying plan, the applicant shall submit a fee or fees as established by the Planning Board under Section I.F.
- h.) The applicant shall file by hand delivery or Registered Mail, a notice with the Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed application (Form C). Such notice shall conform to the requirements of MGL Ch.41, Section 81 T.
- i.) A copy of the Definitive Plan and the application shall also be filed by the applicant with the Board of Health, in accordance with MGL, Chapter 41, Section 81U.

2. CONTENTS:

The Definitive Plan shall be prepared by a Registered Professional Engineer or registered land surveyor (as appropriate) and shall be clearly and legibly drawn on material that is clearly reproducible. The plan shall be at a scale of one inch equals forty feet or such other scale as the Board may accept to show details clearly and adequately. Sheet size shall preferably not exceed 24 inches x 36 inches. The Board may require some of the required copies of the plan to be submitted on smaller sheets (such as 11" x 14") for easier distribution to other Boards and Departments. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following information:

- a.) Subdivision name, boundaries, north point, date and scale;
- b.) Name and address of record owner, subdivider, the stamps and signatures of registered engineer or registered land surveyor;
- c.) Names of all abutters as they appear in the most recent tax list;
- d.) Existing and proposed lines of streets, ways, lots, easements and public or common areas within the subdivision. The proposed names of streets shall be shown, and are subject to approval 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, 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, width and location of all easements outside of street lines.
- i.) Suitable space to record the action of the Board and the signatures of the members of the Planning Board. A signature block shall be included on every sheet of the submitted plans,

including detail sheets. 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 a suitable contour interval as required by the Planning Board;
- k.) Profiles on the exterior lines of proposed streets at a horizontal scale of one inch equals forty feet and vertical scale of one inch equals four feet, or such other scales acceptable to the Planning Board. All elevations shall refer to Mean Sea Level;
- l.) Proposed layout of storm drainage, gas, water supply, underground electrical distribution and sewerage disposal systems;
- m.) Location of natural waterways and water bodies within and adjacent to the subdivision;
- n.) A Locus plan of the subdivision shall be submitted, showing its street configuration in relationship to surrounding streets, at 1 inch equals 600 feet.
- o.) Location of all wetlands and resource areas, as delineated by a professional according to the provisions of 310 CMR 10.00, the Massachusetts Wetland Protection Regulations.

3. BOARD OF HEALTH REVIEW

- a) In accordance with the requirements of MGL Chapter 41, Section 81U, the Board of Health shall report to the Planning Board in writing approval or disapproval of said Plan within 45 days of filing with the Board of Health. In the event of disapproval the Board of Health shall make specific findings as to which, if any, of the lots shown on the plan cannot be used for building sites without injury to the public health, and include specific findings and the reasons therefore in such report, and where possible, shall make recommendations for the adjustment thereof. The Board of Health shall send a copy of such report, if any, to the person who submitted such plan.
- b) Failure of the Board of Health to make such a report within 45 days shall be deemed approval by said Board of Health. In the event approval by the Board of Health is by failure to make a report, the Planning Board shall note on the plan that the Board of Health approval is by failure to report.
- c) When the Definitive plan shows that no public or community sewer is to be installed to serve any lot thereon, approval by a Board of Health shall not be treated as, nor deemed to be approval of a permit for the construction and use on any lot of an individual sewage system; and approval of a Definitive Plan for a subdivision by a Board of Health shall not be treated as, nor deemed to be, an application for a permit to construct or use an individual sewage system on any lot contained therein.

4. CONSERVATION COMMISSION REVIEW

When filing with the Leicester Conservation Commission is applicable to a Definitive Subdivision Plan, the Applicant is strongly encouraged to seek concurrent Planning Board and Conservation Commission review and approval.

5. PUBLIC HEARING:

Before approval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of the time and place and of the subject matter, sufficient for identification, shall be given by the board. The notice will be advertised, at the applicant's expense, in a newspaper of general circulation in the Town of Leicester, once in each of two (2) successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing.

A copy of such advertisement shall be mailed, at the applicant's expense, to all owners of land abutting upon the subdivision as appearing in the most recent tax list by certified mail, return receipts required.

6. CERTIFICATE OF APPROVAL:

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 mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for its actions. 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) days appeal period has elapsed following the filing of the certificate of the action of the Board 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 applicant shall furnish the Planning Board with eleven (11) prints thereof. Following its recording, the applicant shall also furnish the Planning Board with a copy of the Plan as recorded at the Registry of Deeds, indicating date of recording, book and page number.

Approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of any of the streets within a subdivision.

7. ENDORSEMENT AND RECORDING

- a) Before endorsement of its approval of a Definitive Subdivision plan, the Planning Board shall require that the construction of ways and the installation of municipal services be secured by one, or in part by one and in part by another, of the four methods of performance guarantee described under MGL, Chapter 41, Section 81U (See Appendix H): 1) by a proper bond, 2) by a deposit of money or negotiable securities, 3) By a Covenant, and 4) by an agreement whereby a lender retains funds, and as further regulated under Section IV. of these rules and regulations.
- b) Any Covenant shall be either inscribed on the plan or contained in a separate document, referred to on the plan. If contained in a separate document, the plan notation shall read as follows:

The construction of ways and installation of services shown on this plan are secured by way of a Covenant, dated _____, to be recorded herewith.

- c) Any condition required by the Board of Health shall be either inscribed on the plan or contained in a separate document, referred to on the plan. In the event approval by the Board of Health is by failure to make a report, the plan shall contain a notation that health approval is by failure to report.
- d) Before endorsement, the Applicant shall submit a copy of a certificate from the Town Clerk indicating that the twenty (20) day appeal period has expired with no appeal.
- e) Before endorsement, the Board's written approval (Certificate of Approval of a Definitive Subdivision Plan) shall be referenced on the plan. The plan notation shall read as follows:

Conditions of approval are contained in the written Decision of the Planning Board, entitled CERTIFICATE OF APPROVAL OF A DEFINITIVE SUBDIVISION PLAN, dated _____.

- f) Before endorsement, the deadline to commence and complete construction shall be referenced on the plan as described under Section III.B.8, RESCISSION.
- g) The applicant shall submit one (1) mylar copy for endorsement and two (2) paper copies at least one week prior to a Planning Board meeting.
- h) Plans should be submitted for endorsement as soon as practical following the expiration of the twenty (20) day appeal period. Failure to submit plans for endorsement within 6 months of the date Definitive Subdivision approval is filed with the Town Clerk shall constitute sufficient reason for the rescission of such approval, in accordance with the requirements of Section 81W, Chapter 41, of the Massachusetts General Laws, unless such time is extended by vote of the Board.
- i) The endorsed plan, the decision of the Board, any Covenant, and any other supplementary documentation required by the Board shall be recorded at the Registry of Deeds or the Land Court as applicable within six (6) months of endorsement

8. RESCISSION:

Failure of the developer to record the definitive Plan within six (6) months of its endorsement shall constitute sufficient reason for the rescission of such approval, in accordance with the requirements of Section 81W, Chapter 41, of the Massachusetts General Laws.

Approval of the Leicester Planning Board is for five (5) years or for such other time as is specifically authorized by vote of the Board at the time of approval. Failure by the applicant to complete the construction of ways and installation of services shown on the Definitive Plan within five (5) years from the date of endorsement, or such other time as authorized by the Board, shall result in the automatic rescission of the approval. A notation indicating the deadline for construction, where applicable, shall be made on the Definitive Plan to be endorsed by the Planning Board. The notation shall read as follows:

Approval of the Leicester Planning Board is for ____ years only. In the event the ways and services shown on this Plan are not constructed and installed within ____ years from the date of endorsement, the Board's approval is rescinded, and this Plan is and shall be null and void.

The time for such construction and/or installation may be extended upon the written request of the applicant, for good cause shown, prior to the expiration of the approval period, and upon a vote of the majority of the Planning Board. In all cases, failure by the applicant to *commence* construction of ways and services shown on the Definitive Plan within five (5) years from the date of endorsement shall result in the automatic rescission of the approval.

SECTION IV. PERFORMANCE GUARANTEES

A. FORM OF PERFORMANCE GUARANTEES

Performance guarantees shall be filed with the Planning Department and shall be subject to the following requirements:

1. If performance is guaranteed by means of a Covenant, such Covenant shall be in the form and contain the language as shown in Appendix B, or as otherwise required or approved by the Board.
2. Under no circumstances shall the value of unsold lots be used as a form of financial performance guarantee.
3. If performance is guaranteed by means of a bond, a deposit of money or negotiable securities or an agreement whereby the construction lender retains loan funds, the performance guarantee shall comply with the following:
 - a.) It shall define the developers' obligation as "the construction of streets and ways, the installation of municipal services and the construction of certain other improvements for lots as shown in the subdivision plan entitled _____, dated _____, and approved by the BOARD on _____ including without limitation the work described in Section IV.A.3.f., below.
 - b.) It shall specify a scheduled completion date on which the construction of the approved subdivision streets and improvements shall be completed by the developer. The Board may extend such time as it deems appropriate after receipt of a written request received by the Board forty-five (45) days prior to the scheduled date of completion.
 - c.) It shall state that it shall not expire until the Board upon request certifies that all road work and improvements have been completed according to the approved plan and that the performance guarantee is released, or, until 45 days have lapsed from the date the Board received, by certified mail, a request for such certification and release, whichever comes first.
 - d.) It shall state that it applies in full to all successors of the applicant/developer whose performance is guaranteed.

- e.) It shall state that the full amount of the guarantee shall be due immediately to the Town of Leicester in case of the default of the developer or his/her successor in constructing the Streets and ways, municipal services, and other improvements in accordance with the approved subdivision plan. Default of the developer or successor shall be defined in the performance guarantee as meaning:
 - i. failure to complete all improvements as shown on the approved subdivision plan by the scheduled completion date;
 - ii. bankruptcy of the developer or the foreclosure of any mortgage on all or part of the land of the approved subdivision before the scheduled completion date;
 - iii. notice to the Board of the withdrawal or termination of any performance guarantee given hereunder, or of a request to substitute performance guarantee hereunder, prior to the scheduled completion date of the work, unless it is given 45 days prior to the anticipated date of such withdrawal, termination or substitution; or
 - iv. any other condition or circumstance that constitutes default, in the opinion of the Board.
 - f.) The performance guarantee shall include a detailed scope of work to be completed under the performance guarantee and as applicable, a schedule of partial and final releases of the performance guarantee, in accordance with Section IV.B and IV.C.
4. The performance guarantee shall not contain any language which contradicts the above stated requirements.
 5. An estimate may be requested from the Board once prior to the establishment of the performance guarantee and once with each subsequent full or partial release. The Applicant shall submit a proposed estimate as part of the request. The Applicant's proposal will be reviewed by the Town and used to assist in preparation of the required amount of the performance guarantee. The Town shall have 30 days to review such request and provide an estimate. The estimate will remain effective for ninety days. The penal sum of any such performance guarantee shall bear a direct and reasonable relationship to the expected cost necessary to complete the subject work plus a contingency amount of no more than 50% of the expected cost to guard against unexpected costs and the effects of inflation. However, the estimate shall reflect the cost for the town to complete the work as a public works project which may necessitate engineering, inspection, legal and administrative fees, additional staff time and public bidding procedures.

B. PARTIAL RELEASES

Prior to final release of a performance guarantee, the Board may grant up to two partial releases from the required performance guarantee for partial completion of improvements (or three partial releases in the event the original performance guarantee exceeds the sum of \$1 million or 50 LOTS) provided that:

1. No lots shall be released from a Covenant unless construction of streets and ways, and installation of municipal services and other improvements in accordance with he approved subdivision plan for said lots has been completed or another form of security

has been substituted, sufficient to complete said streets and ways, municipal services, and other improvements. No lots shall be released from a Covenant until the base coat of pavement has been installed and inspected to the satisfaction of the Town Engineer.

2. No reduction in the amount of the performance guarantee shall reduce the performance guarantee to a value below the estimated cost of completing the unfinished portions of the improvements.

C. FINAL RELEASE

Upon the completion of the construction of streets and ways, and the installation of municipal services and other improvements in accordance with the approved subdivision plan, the applicant may request release of the bond, deposit of money or securities, or funds retained by lender by sending a statement of completion and a request for release by registered mail to the Town Clerk and the Board.

1. Such statement shall be accompanied by the following:
 - a.) Three paper copies, one original mylar, and one digital version (in AutoCAD .dwg format or other format acceptable to the Planning Board) of an as-built plan of the streets and ways as required in Section VI.P.
 - b.) A written certification by a Registered Land Surveyor indicating that such as-built plan accurately reflects the conditions in the completed subdivision in compliance with the approved Definitive Plan.
 - c.) A written certification by a registered professional engineer that the streets, drainage and utilities conform to the Board's requirements in accordance with the approved Definitive Plan.
 - d.) A written confirmation from the Town Engineer that the binder course was exposed to one winter season (Nov. 15 – April 30) prior to the application of the wearing course, and that the completed street and drainage and utility improvements have been exposed to the natural elements and weather conditions during one additional winter season (Nov. 15 - April 30) without substantial damage, or that damage, if incurred, has been repaired to the satisfaction of the Town Engineer. Items to be evaluated include, but are not limited to: pavement integrity, including sidewalks, curbing/berm, etc; permanent type grass on all seeded areas; establishment of vegetation on sloped areas; and functional integrity of all parts of the drainage system. Core samples of the roadway shall be required unless the depth of pavement was inspected and approved by the Town Engineer during construction.
 - e.) A written confirmation from the Leicester Town Engineer that installation of street trees and other plantings required by these Rules and Regulations and the approved subdivision plan have been completed satisfactorily, that such plantings have been exposed to one winter season (Nov. 15 - April 30) and that damaged plantings, if incurred, have been replaced to the satisfaction of the Town Engineer.
 - f.) The address of the applicant.
2. If the Board determines that said construction or installation has not been completed in accordance with the approved Subdivision plan, it shall specify in a notice sent to the Town Clerk and, by registered mail, to the applicant, the details wherein said

construction or installation fails to comply with the approved Subdivision plan. Upon failure to do so within forty-five days after the receipt by said clerk of the statement requesting release of the Town's interests, 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 day period expires without such specification by the Board, or without the release and return of the bond or return of the deposit or release of the Covenant as aforesaid, the Town Clerk shall, upon request, issue a certificate to such effect, duly acknowledged, which may be recorded.

3. However, even though all improvements covered by a performance guarantee may have been completed, the Board may delay the release of the performance guarantee if completion of construction on any remaining undeveloped or partially developed lot or lots poses a substantial risk of damage to the subdivision improvements.

SECTION 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 the maximum livability and amenity of the subdivision.
- b.) The proposed streets shall conform to the Master or Study Plan, if any, as adopted in whole or in part by the Planning Board.
- c.) Provisions satisfactory to the Planning Board shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided.
- 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's best interest.
- e.) Street jogs with center line offsets of less than one hundred and twenty-five (125) feet should be avoided.
- f.) The minimum center line radii of curved streets shall be 200 feet. Greater radii may be required for major 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.

2. WIDTH:

- a.) The minimum width of street rights-of-way shall not be less than forty feet (40) with a minimum travel way of twenty-eight (28) feet. Greater width shall be required by the Board when deemed necessary for present and future vehicular travel.

3. GRADE:

- a.) Grades of streets shall be not less than 0.75%. Grades shall not be more than 6.0% for major streets nor more than 10.0% for minor and secondary streets, except that the maximum grade in cul-de-sac turnarounds shall not be more than 4.0% to allow for safe maneuvering of vehicles.
- b.) On any street where the grade exceeds 6.0% on the approach to an intersection, a leveling area with a slope of not more than 4.0% shall be provided for a distance of not less than fifty (50) feet measured from the nearest exterior line of the intersecting street.

4. DEAD END STREETS:

- a.) Dead end streets shall not be longer than five hundred (500) feet unless, in the opinion of the Planning Board, a greater length is necessitated by topography or other local conditions. Length of a dead end street is measured to the end of a cul-de-sac.
- b.) Dead end streets shall be provided at the closed end with a turnaround having an outside roadway diameter of at least one hundred (100) feet and a property line diameter of at least one hundred and twenty (120) feet and shall meet the Fire Department's minimum equipment access requirements at the time of filing of the definitive plan.

5. CROSS-SECTION:

Grading and location of pavements and utilities shall be as indicated on the Typical Street Cross Section.

6. SIGHT DISTANCE:

Intersections must meet all sight distance requirements specified in the Massachusetts Department of Public Works, Highway Design Manual as the same is published on the date of submission of the plan.

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 twenty (20) 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 the minimum width of twenty (20) feet to conform substantially to the liens of

such water course, drainage way, channel or stream, and to provide for construction or other necessary purposes.

C. DRAINAGE:

1. All drainage systems shall be designed in compliance with Massachusetts DEP Stormwater Management policy.
2. Storm drains, culverts and related facilities shall be designed to permit the unimpeded flow of all natural water courses, to ensure adequate drainage of all low points along streets, to control erosion, and to intercept storm water run off along streets at intervals reasonably related to the extent and grade of the area drained.
3. Storm sewers shall be based on a twenty five (25) year frequency storm, and culverts shall be based on a fifty (50) year frequency storm.
4. Design shall be based upon either the Rational Method or Manning's Formula. Water velocities shall be between 2 and 10 feet per second. The coefficient of run off used shall be not less than 0.3 for subdivided areas. All land suitable for development tributary to facilities being designed shall be assumed to be subdivided. A catch basin to manhole system of drainage is required, with no storm sewers of less than twelve (12) inch diameter, and with catch basins at all low points and sags, near the corners of the roadway at intersecting streets, and at intervals of not more than three hundred and fifty (350) feet on continuous grades. Minimum cover for drains shall be thirty six (36) inches. Leaching basins or related methods are not acceptable.
5. Proper connections shall be made with any existing drains in adjacent streets or easements where they may exist and prove adequate to accommodate the drainage flow from the subdivision, and in the absence of such facilities, or the inadequacy of the same, it shall be the responsibility of the developer to extend drains from the subdivision as required to properly dispose of all drainage from said subdivision in a manner determined proper by the Planning Board.
6. Where adjacent property is not subdivided, provision shall be made for extension of utility systems by continuing appropriate drains and water mains to the exterior boundaries of the subdivision, at such size and grade as will allow for their proper projection and with such accessories and appurtenances deemed appropriate by the Planning Board or designated agent.
7. The subdivider shall submit hydrologic/hydraulic calculations prepared by a Registered Professional Engineer showing pre and post development peak runoff rates and volume of runoff from the proposed subdivision. The ability of the infrastructure and downstream receptors to convey and accept any increase should be analyzed to determine the need for detention. Calculations should be prepared for the 10-, 25-, and 100 year storm events and should be based on SCS TR-20 or TR-55, as appropriate. If detention is required, an emergency spillway with the capacity to convey the 100 year storm should be provided.

D. WATER AND SEPTIC DISPOSAL:

1. Any public water system design shall be based upon the requirements of the applicable District Water Commission, any public sewer system design upon the requirements of the applicable District Sewer Commission, and any private water (well) and/or septic system design shall be based upon the requirements of the Board of Health.
2. No Definitive Plan shall be approved by the Planning Board unless evidence satisfactory to the Board is presented that adequate provision will be made for supply of water and disposal of sewerage for each lot in the subdivision which is to be built upon. Satisfactory evidence of adequate provision of the supply of water and disposal of sewerage shall be as follows:
 - a. Where private septic systems and/or wells are proposed, Board of health review as required by MGL Ch.41, Section 81U is required prior to Definitive plan approval. In such cases, no building or structure shall be placed on any lot without the consent of the Board of Health. Final approval of a plan shall be conditioned upon compliance with the recommendations of the Board of Health.
 - b. Where public water and/or sewer lines are proposed, and water and/or sewer lines are currently located adjacent to the proposed project where direct connection to existing lines is proposed and where such project is located entirely within the applicable District(s) boundaries and where there is no moratorium on new tie-ins for water or sewer as applicable, a letter from the applicable District(s) or approval authority indicating that there is adequate capacity to serve the project as proposed and that the project can be accommodated subject to reasonable conditions without causing municipal water flow characteristics off-site to fall below the standards adopted by the applicable District(s) shall serve as adequate evidence of the availability of water or sewer. However, in no case shall construction of any approved project commence until full review and final water and/or sewer approvals are obtained as applicable.
 - c. Where the project is located within an existing water and/or sewer District, but water and/or sewer lines are not located adjacent to the proposed project, the applicant must obtain a letter from the applicable District(s) indicating that that the District(s) allows extensions of existing utility lines to the project site subject to reasonable permitting requirements, and the requirements of paragraph b., prior to Planning Board approval.
 - d. Where a proposed project is proposing public water and/or sewer and is located outside of the applicable water or sewer district, final acceptance into the relevant district and the requirements of paragraphs b. and c., above shall be required prior to approval of a Definitive Subdivision Plan.
3. Where applicable, there shall be no construction on any portion of a subdivision until a sewer extension permit is obtained from the Department of Environmental Protection.

E. OPEN SPACE:

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. The Planning Board may by appropriate endorsement

on the plan require that no building be erected upon such park or parks for a period of 3 years without its approval.

F. PROTECTION OF NATURAL FEATURES:

Due regard shall be shown for all natural features, such as large trees, water courses, scenic points, historic spots and similar community assets, which, if preserved, will add attractiveness and value to the subdivision. Developers will demonstrate compliance with the Town of Leicester Forest Cutting and Wetland General Bylaws, as appropriate and indicate resource areas on the plan.

G. LOT SIZES:

Proposed lots shall be in conformance with the Town's Zoning By-laws for the zoning districts in which the subdivision is located.

H. ENVIRONMENTAL ANALYSIS:

Any subdivision creating frontage potentially allowing ten (10) or more family units shall be based upon an Environmental Analysis.

For definitive subdivision proposing a layout of only a portion of a large area under one ownership, determination of requiring an environmental analysis under this section shall be based upon the number of family units that could potentially be proposed for the entire property. In addition for subdivisions of fewer than 10 family units, the Planning Board may require that certain of the following be submitted where such information is necessary to evaluate the plan because of special circumstances of the site or proposal.

Environmental Analysis shall be prepared, at the developer's expense, by an interdisciplinary team to include a Land Surveyor, Civil Engineer and Architect or Landscape Architect, unless otherwise agreed to by the Planning Board. The following documentation is required from each such analysis:

1. A set of plans at uniform scale shall be submitted, encompassing the entire subdivision on a single sheet no larger than 24" x 36" showing the following:
 - a.) The same data as on the Definitive Plan
 - b.) Topography at two foot contour intervals, with graphic drainage analysis; indication of annual high water mark, location of existing structures, including fences and walls, and watershed boundaries.
 - c.) Vegetation cover analysis, including identification of general cover type (wooded, cropland, brush, wetland, etc.); location of all major tree groupings, plus other outstanding trees or other botanical features; important wildlife habitats; and identification of areas not to be disturbed by construction.

- d.) Soil types, based on United State Department of Agriculture (USDA) soils study; approximate ground water level, location and results of soil percolation or other sub surface tests.
 - e.) Visual analysis, including analysis of scenic vistas, and locations of visual prominence.
 - f.) Location of surface water bodies, wetlands, aquifer or recharge areas for existing or potential drinking water supplies.
2. A narrative statement shall also be submitted, documenting the following, with reference to the above maps as germane:
- a.) Impact upon surface water quality and level.
 - b.) Impact upon ground water quality and level.
 - c.) Effects on important wildlife habitats, outstanding botanical features, scenic or historic sites or buildings.
 - d.) Capability of soils and vegetative cover to support proposed development without erosion, silting or other instability.
 - e.) Relationship to Massachusetts General Laws, Chapter 131, Sections 40, (Wetlands Protection Act) and Town Wetland Bylaw.
 - f.) The report shall estimate the proposed traffic flow in relation to the roadways giving access to the subdivision.
 - g.) The report shall estimate the effect of the project on public services, such as water, sewer, schools, police, fire and highway department.

SECTION VI. REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVISION:

The following improvements shall be made without expense to the Town, and consistent with the Typical Street Cross Section included in these regulations. In the absence of provision to the contrary, materials and methods shall be consistent with the current edition of the Massachusetts (D.P.W.) Highway Department Standard Specifications for Highways, Bridges and Waterways, as amended.

A. PREPARATION AND SURFACING OF ROADWAY:

- 1. The entire width of the right-of-way shall be cleared of all stumps, brush, roots, boulders, like material and trees not intended for preservation.
- 2. Pavement shall be constructed 28 feet wide, exclusive of curbing, and centered within the right-of-way.

3. All materials not suitable for foundation material shall be removed from an area two feet wider than the paved width and to the depth of at least 15 inches below grade. Peat, silt, loam or similar yielding materials shall be removed to a firm foundation.
4. Traveled ways shall be provided with a foundation consisting of at least 12 inches compacted thickness of good binding gravel satisfactory to the Planning Board or designated agent, clean, free of organic matter, and containing no stones over 6 inches in diameter. The gravel shall be spread in two layers, and rolled with a 10-14 ton roller true to line and grade to conform with the Typical Street Cross-Section and the street profiles. Any depressions that occur, either during or after rolling, must be filled with additional gravel and rolled until the surface is true and even. The Planning Board may require streets to be re-excavated if foundation material is placed prior to plan approval and inspection of the road sub-foundation.
5. A tack coat of 1/2 gallon a square yard will be applied prior to application of base course of pavement.
6. The wearing surface of roadways and driveways within the right-of-way shall be 2 two course Type I-1 bituminous concrete pavement, applied with a 2 inch after compacting base course and a 1 inch after compacting finish course, in accordance with the Massachusetts (DPW) Highway Standard Specifications 460. The base course shall be applied after the treated roadway has been subjected to traffic for a time specified by the Town agent, and shall be weathered through at least one winter before the finish course shall be applied. The Town will not plow snow in any subdivision street that does not have a Binder course.
7. Driveway entrances shall be designed and constructed consistent with regulations approved by the Planning Board or designated agent.

B. STORM DRAINAGE SYSTEM:

1. A complete storm drainage system shall be installed as shown on the Definitive Plan and as follows:
 - a.) Piping shall be concrete unless protected corrugated aluminum is approved by the Planning Board. Piping with less than 36 inches of cover shall be of reinforced concrete.
 - b.) Catch basins and manholes shall be at least 6 feet deep and 4 feet in diameter at a point 2 1/2 feet below the bottom of the frame (inside measurement). They shall be constructed of cement plastered concrete blocks or precast concrete units. Grate and frame shall be State standard. Catch basins shall provide a sump extending not less than 30 inches below pipe invert. Granite headers shall be placed in back of all Catch basins. On grades of 4% or more, pavement surface shall be shaped for two feet all around catch basin grates to allow such grates to be set 2 1/2 inches below normal street grade at that point.

- c.) Open brooks or tributary ditches shall be shaped to a cross section and gradient, and provided with stream bottom hardening, all acceptable to the Planning Board or designated agent.

C. WATER SYSTEMS AND FIRE PROTECTION:

Water pipes and hydrants will be placed in accordance with the appropriate water commissioners but, with the approval of the Planning Board. Subdivision of 5 or more homes, not having connections to a public water supply, shall provide a system of fire protection in the form of cisterns, holding ponds, etc. as per requirements of the Leicester Fire Department.

D. SEWER SYSTEM:

1. When in the opinion of the Planning Board the subdivision way is located in proximity to the public sewer system and the connection is consistent with the public health and welfare and the subdivision control law, then the developer shall provide said sewer connection. When the subdivision is in proximity to a proposed sewer extension for which appropriation has been authorized by District meeting action, the subdivision shall be sewered so that such connection can be made as such extension progresses. Where gravity connection is not feasible, a lift station shall be located and installed in accordance with the requirements of the appropriate sewer district. Common sanitary sewers within the subdivision shall be installed under the supervision of and in accordance with the requirements of said sewer district and approval of the Planning Board.
2. Individual or private sewer systems will be permitted only under conditions other than the above, and design and installation of such individual or private sewer systems shall be under the supervision of the Board of Health in strict compliance with 310 CMR 15.00 of the State Environmental Code Title V: Minimum Requirements for the Sub surface Disposal of Sanitary Sewerage.

E. UNDERGROUND WIRING AND LIGHTING:

1. All wiring, cables and other appurtenances of electric power, and telephone shall be placed underground within the limits of the street right-of-way, except where such underground installation would, in the judgment of the Planning Board, cause undue hardship by reason of topography, subsoil conditions, or other site peculiarities, or by reason of the existing development pattern. Electric power cables shall be not less than 30 inches below finish grade.
2. A street lighting plan shall be prepared in conjunction with the Massachusetts Electric Company and presented to the Planning Board
3. Street lights shall be required at the following locations: school bus stops; intersections; cul-de-sac ends; sharp radius curves; pedestal type mounted group mailboxes; fire hydrants (and including dry hydrants or other fire department designated water locations); and other areas where safety is of concern.

F. UTILITY LOCATION:

Fire hydrants shall be located as close as possible to the outside of the right-of-way. Water mains shall be located 7 feet horizontally in from the edge of the right-of-way on the side selected by that utility, gas mains 4 feet in from the same edge of the right-of-way, and telephone, electricity, and any other cable utilities located 7 feet in from the street sideline on the opposite of the right-of-way.

G. SIDEWALKS:

1. Sidewalks shall be installed on both sides of all streets within a subdivision. Sidewalks shall be not less than 5 feet in width, shall be located as close as is feasible to the street side line, and shall slope toward the curb with a slope of 3/8 inch per foot.
2. Preparation of the base shall be accomplished by removing material to a depth of 10 inches below finished designed grade. Any soft spots of undesirable material shall be removed and replaced with gravel. The excavated area shall be filled with 8 inches of gravel and rolled.
3. Forms shall be set to grade, then two 1 inch layers of type I bituminous concrete shall be placed, except at driveways, the thickness shall be two 1 1/2 inch layers.

H. MONUMENTS:

Granite or concrete monuments not less than 34 inches long and not less than 5 inches square, shall be placed so as to define the location of all street rights-of-way, be placed at all street line angle points, points of curvature, and street line intersections, and be spaced not more than 1,000 feet apart.

Permanent monuments shall not be set until all street or utility construction that might destroy or disturb their location has been completed. Prior to release of security, the developer's land surveyor shall furnish the Board with a letter certifying that the monuments have been placed precisely as indicated on the Definitive Plan.

I. STREET SIGNS:

Street signs shall be furnished and erected, conforming with street signs used by the Town, identifying each street at each intersection within the subdivision and in conformity with the Town of Leicester E911 plan and approved by the E911 personnel.

J. CURBING:

Curbing is required lining both sides of all streets. All curbing shall be of Type I-1 Class 1 bituminous concrete modified Cape Cod berm formed by a berm machine and placed on a satisfactory base, except at granite curb inlets. Modified Cape Cod berm shall be as shown on the Bituminous Concrete Berm Modified Type "A" Detail included in these Rules and Regulations..."

K. GRADING OF SLOPES:

All slopes resulting from grading streets and sidewalks shall not exceed 1 foot vertical to 3 feet horizontal in fill; 1 foot to 2 feet in cut; and 1 foot to 3/4 foot in ledge. Slope easements or retaining walls shall be employed where slopes cannot be contained within street sidelines.

L. PLANTING:

Existing trees which, in the opinion of the Board, are suitable for street trees shall be preserved, and where such are inadequate, shade trees having a trunk diameter of at least two inches shall be planted, usually to be spaced not more than 40 feet apart. The planting space between sidewalk and the roadway or street side line shall be loamed, seeded and rolled to the satisfaction of the Planning Board.

M. SAFETY:

1. All precautions should be taken by the developer and his subcontractors to observe common sense safety requirements. The Board designates the Building Inspector to report all unsafe activities in preparation of the subdivision to the Board. Holes greater than 5 feet in depth and soil piles higher than 5 feet, or materials stacked in an unsafe manner shall not be allowed unless the area is adequately protected.
2. The location of pedestal type mounted group mailboxes shall be reviewed and approved by the Planning Board. Pedestal type mounted group mailboxes, if required, shall not be located at intersections or along sharp radius curves.

N. CLEANING UP:

Before sale of a lot, the subdivider shall clean up any debris thereon, caused by street construction and installation of utilities, all trees removed to allow for construction shall be disposed of outside of the subdivision. All stumps and boulders shall be buried within designated areas approved by the Planning Board.

All areas within the street lines destroyed or altered in construction operations shall be restored to vegetation or other finish satisfactory to the Board.

O. INSPECTION:

Inspections shall be arranged for as outlined by the Planning Board upon approval of the Definitive Plan. No backfilling or covering of any pipe shall be permitted until approval by the Planning Board or designated agent.

P. AS-BUILT PLANS:

Upon completion of construction, and before release of the performance guarantee (See Section IV.), the subdivider shall have prepared and submit on mylar, with three paper copies and a digital copy (in AutoCad.dwg format or other format acceptable to the Planning Board), As-Built Plans at 1" = 40', which shall indicate the location of the following as built:

1. Street right-of-way layout and property sidelines of abutting parcels.

2. Edge of pavement, curbs and berms.
3. Underground utilities, including sewers, water mains, drainage culverts. All manholes, valves, services, or other appurtenances to the utility shall be shown.
4. Detention or drainage facilities which serve the roadway proposed for acceptance, including grading, outlet or inlet control structures, rip-rap, or other features of the detention area.
5. Mainline underground cable television, electric conduit and telephone trench. Trench locations may be shown schematically.
6. Appropriate details of construction, showing the technical manner of construction
7. Monuments

The accuracy of such As-Built plan shall be certified by a Registered Land Surveyor. In addition, a Professional Civil Engineer shall certify that all construction was executed in conformance with the subdivision regulations and with all requirements agreed upon as a condition to plan approval. The developer shall be responsible for the repair of this work for a period of one (1) year following original approval of same.

Q. ROAD ACCEPTANCE:

1. Street acceptances within a subdivision are the financial and legal responsibility of the subdivider.
2. When a road or street in a subdivision has been completed in a manner fulfilling the requirements of the Board, the subdivider may request the Board to inspect the road in order to give a recommendation to the Board of Selectmen who will consider the question of laying out said street or road under MGL Ch. 82, and the additional requirements of the Town of Leicester Board of Selectmen, including review and recommendation by the Road Conversion Committee.
3. The Board shall require submission of the following information a minimum of six (6) months prior to a scheduled Town before making a recommendation to the Board of Selectmen, and all deficiencies identified must be fully addressed a minimum of 2 months prior to Town Meeting:
 - a.) The following plans, which shall be separate plan sets, independently numbered, and identified by a Cover Sheet:
 - i.) Acceptance Plan. An Acceptance Plan of all street right-of-ways and easements shall be submitted. The Acceptance Plan shall be submitted on mylar sheets, with three copies printed on paper and a digital copy (in AutoCAD .dwg format or other format acceptable to the Planning Board), prepared in accordance with requirements for retracement survey as defined under Massachusetts General Law 41, Section 81X, and suitable for recording at the Worcester District Registry of Deeds.
 - ii.) As-Built Plan. A separate As-Built Plan shall be submitted of all roads proposed for acceptance. The As-Built plan shall be submitted in accordance with Section VI.P., above.

- b.) All information required under Section IV.C.1.
- c.) A certificate by a registered land surveyor indicating that all permanent monuments are in place and are accurately located.
- c.) Three (3) copies of a legal description by metes and bounds of each road and easement considered for acceptance by the Town.
- d.) Three (3) copies of the proposed deed conveying the fee in the street plus any associated easements to the Town, and legal evidence that the fee in the street has not been inadvertently conveyed to abutting lot owners.
- e.) Written certification from the applicable Water and/or Sewer District(s) that the final water and/or sewer system(s) has been approved by said District(s).
- f. Written certification from the Fire Department that the fire hydrants have been approved by the Fire Department
- g. Certificate of compliance with conditions imposed on the subdivision by the Conservation Commission under MGL Ch. 131, Section 40 and the Leicester Wetlands Bylaw, as applicable.
- h. Copy of recorded deed(s) and other instruments for any common land or public open space, park or other such parcels contained within the subdivision.
- i. written evidence from the Town treasurer that all property taxes owed to the Town for land contained within the subdivision owned by the applicant or by the original develop or his/her successors in interest have been paid to the Town.

R. INDUSTRIAL SUBDIVISIONS:

Industrial subdivisions shall conform to all requirements applicable to residential subdivisions except as follows:

- 1. Pavement thickness shall be three (3) inches and shall be placed in two (2) courses. The bottom course shall be two (2) inches thick and the top one (1) inch. The top course shall not be placed until all utility connections have been made to each lot.
- 2. Right-of-way will be fifty (50) feet.
- 3. Pavement width shall be thirty-six (36) feet between berms.
- 4. Berm radii at street intersections shall be fifty (50) feet minimum.
- 5. Roadway grades shall not exceed six (6) percent.
- 6. Looping streets and second exits should be provided to avoid cul-de-sac type turnarounds.
- 7. Travel lanes shall be marked in accordance with the latest Manual on Uniform Traffic Control Devices, Commonwealth of Massachusetts, (DPW) Highway Department.

SECTION VII. ADMINISTRATION:

A. AUTHORITY:

The Planning Board shall be the administrative, agency of these regulations and shall have all the powers assigned them by Section 81 A to GG of Chapter 41 of the Massachusetts General Laws.

The Planning Board may assign appropriate Town agencies or officials as their agents to review plans and inspect improvements.

The Planning Board on its own motion or on the petition of any interested person, shall have the power to modify, amend or rescind its approval of a plan of a subdivision, or to require a change in a plan as a condition of its retaining the status of an approved plan.

B. VARIATION:

1. WAIVER OF COMPLIANCE:

Strict compliance with the requirements of these rules and regulations may be waived only when, in the judgment of the Planning Board, such action is in the public interest and not inconsistent with the Subdivision Control Law. In waiving strict compliance, the Planning Board may require such alternative conditions as will serve substantially the same objective as the standards or regulations waived.

When in the opinion of the Planning Board any future development may cause increased traffic to the ways on said plan, the Planning Board may issue waivers or waivers with conditions subject to the developer's compliance with the regulations in place at the time.

2. CLUSTER OR PLANNED UNIT DEVELOPMENT:

The Planning Board will give consideration to suggestions offered by the subdivider that will tend to provide for the most efficient use of the land in harmony with its natural features.

C. REFERENCE:

For matters that may arise during subdivision procedures that are not covered by these regulations, the following are accepted as standards in their applicable portions, "Standard Specifications for Highways and Bridges, Massachusetts (DPW) Highway Department" and "Section 81 K to 81 GG of Chapter 41 of the Massachusetts General Laws" each as amended or updated from time to time.

D. SEPARABILITY:

If any section, paragraph, sentence, clause or provision of these regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged, and the remainder of these regulations shall be deemed valid and effective.

E. AMENDMENTS:

These regulations or any portion thereof, may be amended, supplemented or repealed from time to time by the Planning Board after a public hearing on its own motion or by petition.

The foregoing is a true copy of the Rules and Regulations adopted by the Planning Board of the Town of Leicester on September 19, 1995, as amended on May 6, 2003 and September 20, 2006.

Appendix A: Application Forms

FORM A. APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO REQUIRE
APPROVAL

FORM B. APPLICATION FOR APPROVAL OF PRELIMINARY PLAN

FORM C. APPLICATION FOR APPROVAL OF DEFINITIVE SUBDIVISION PLAN

**FORM A. APPLICATION FOR ENDORSEMENT OF PLAN BELIEVED NOT TO
REQUIRE APPROVAL**

Date: _____

Property Address: _____

The purpose of the plan is:

To the Planning Board of the Town of Leicester:

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

(Separate paragraphs are used to indicate alternative provisions. The applicant should select and complete the paragraph or paragraphs pertinent to his case.)

1. The accompanying plan is not a subdivision because the plan does not show a division of land.
2. The division of land shown on the accompanying plan is not a subdivision because every lot shown on the plan has frontage of at least such distance as required by the Leicester Zoning By-Law, which requires _____ feet for erection of a building on such lot; and every lot shown on the plan has frontage on:
 - a. a public way or way which the Town Clerk certifies is maintained and used as a public way, namely _____, or
 - b. a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, namely _____, or
 - c. a private way in existence prior to the date the Subdivision Control Law became effective in the Town of Leicester, 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 and the buildings erected or to be erected thereon, namely _____.
3. The division of the tract of land shown on the accompanying plan is not a "subdivision" because it shows a proposed conveyance/other instrument, namely _____ which adds to/takes away from/changes the size and shape of, lots in such a manner so that no lot affected is left without frontage as required by the Leicester Zoning Bylaw.
4. The division of land shown on the accompanying plan is not a subdivision because two or more buildings were standing on the land prior to the date the subdivision control law went into effect in the Town of Leicester, and one of such buildings remains standing on each of the proposed lots shown on said plan. Evidence of the existence of such buildings prior to the effective date of the

Subdivision Control Law is submitted as follows: _____

0. Other reasons or comment (See M.G.L., Chapter 41, Section 81-L)

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

Applicant Information		Owner Information* (if not the Applicant)	
Name:		Name:	
Signature:		Signature:	
Address:		Address:	
Phone #:		Phone #:	

Received by the Planning Board _____.

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

FORM B. APPLICATION FOR APPROVAL OF PRELIMINARY PLAN

Date: _____

To the Planning Board of the Town of Leicester:

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

_____ and dated _____, located _____, showing _____ lots on _____ total acres. Said applicant hereby submits said plan as a Preliminary Subdivision Plan in accordance with the Rules and Regulations of the Leicester Planning Board and makes application to the Board for approval of said plan.

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

Assessors Map & Parcel # _____

Applicant Information		Owner Information* (if not the Applicant)	
Name:		Name:	
Signature:		Signature:	
Address:		Address:	
Phone #:		Phone #:	

Received by the Planning Board _____.

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

FORM C. APPLICATION FOR APPROVAL OF DEFINITIVE SUBDIVISION PLAN

Date: _____

To the Planning Board of the Town of Leicester:

The undersigned, being the applicant as defined under MGL Chapter 41, Section 81L, for approval of a proposed subdivision shown on a plan entitled : _____

and dated _____, located _____, showing _____ lots on _____ total acres. Said applicant hereby submits said plan as a Definitive Subdivision Plan in accordance with the Rules and Regulations of the Leicester Planning Board and makes application to the Board for approval of said plan.

The owner's title to the land included within the proposed subdivision, is derived under deed from _____, dated _____, and recorded in Worcester District Registry of Deeds, Book _____, Page _____, or under Certificate of Title No. _____, registered in Worcester Land Registry District, Book _____, Page _____.

Assessors Map & Parcel # _____

Check one of the following (and fill in where appropriate):

- ☐ A preliminary plan of the proposed subdivision has not been submitted to the Board.
- ☐ A preliminary plan of the proposed subdivision, to which the accompanying plan conforms, was approved by the Board on _____.
- ☐ A preliminary plan of the proposed subdivision was approved by the Board on _____, with modifications, which modifications have been incorporated in the accompanying plan.
- ☐ A preliminary plan of the proposed subdivision was disapproved by the Board on _____.

Applicant Information		Owner Information* (if not the Applicant)	
Name:		Name:	
Signature:		Signature:	
Address:		Address:	
Phone #:		Phone #:	

Received by the Planning Board _____.

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

FORM D. DESIGNER'S CERTIFICATE

Date: _____

To the Planning Board of the Town of Leicester:

I hereby certify that the accompanying plan, entitled _____
and dated _____, is true and correct to the accuracy required by the Rules
and Regulations of the Leicester Planning Board, and that all pertinent data are shown.

[Seal]

Registered Land Surveyor

Registration No. _____

[Seal]

Registered Professional Engineer

Registration No. _____

Appendix B: Sample Covenant

COVENANT

Date: _____

Leicester, Massachusetts

KNOW ALL MEN BY THESE PRESENTS, that the undersigned has submitted an application dated _____, to the Leicester Planning Board for approval of a definitive plan of a subdivision of land entitled: _____

plan by _____, dated _____, and owned by: _____, address: _____

land located _____

and showing ____ proposed lots. The undersigned has requested the Planning Board to approve such plan without requiring a performance bond, the

IN CONSIDERATION of said Planning Board of the Town of Leicester in the county of Worcester approving said plan without requiring a performance bond, the undersigned hereby covenants and agrees with the inhabitants of the Town of Leicester as follows:

1. That the undersigned is the owner* in fee simple absolute of all the land included in the subdivision and that there are no mortgages or otherwise of any of said land, except for those described below, and that the present holders of such mortgages have assented to this contract prior to its execution by the undersigned.

**If there is more than one owner, all must sign. "Applicant" may be an owner or his agent or representative, or his assigns, but the owner of record must sign the covenant.*

2. That the undersigned will not sell or convey any lot in the subdivision or erect or place any permanent building on any lot until the construction of ways and installation of municipal services necessary to adequately service such lot has been completed in accordance with the covenants conditions, agreements, terms and provisions as specified in the following:

- . The Application for Approval of a Definitive Plan (Form C)
- . The Subdivision Control Law and the Planning Board's Rules and Regulations Governing this subdivision
- . The certificate of approval and the conditions of approval specified therein, issued by the Planning Board, dated _____.
- . The definitive plan as approved and as qualified by the certificate of approval.
- . Other documents specifying construction to be completed, namely:

However, a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of the mortgaged premises or part thereof may sell or convey any lot, subject only to that portion of the covenant which provides that no lot be sold or conveyed or shall be built upon until ways and services have been provided to serve said lot.

3. That this covenant shall be binding upon the executors, administrators, devisees, heirs, successors and assigns of the undersigned and shall constitute a covenant running with the land included in the subdivision and shall operate as a restriction upon the land.
4. That particular lots within the subdivision shall be released from the foregoing conditions upon the recording of a certificate of performance executed by a majority of the Planning Board and enumerating the specific lots to be released; and
5. That nothing herein shall be deemed to prohibit a conveyance by a single deed subject to this covenant, or either the entire parcel of land shown on the subdivision plan or all lots not previously released by the Planning Board.
6. That the undersigned agrees to record this covenant with the Worcester District Registry of Deeds, forthwith, or to pay the necessary recording fee to the Planning Board in the event the Planning Board shall record this agreement forthwith. Reference to this covenant shall be entered upon the definitive subdivision plan as approved.
7. A deed of any part of the subdivision in violation of the covenant shall be voidable by the grantee prior to the release of the covenant; but not later than three (3) years from the date of such deed, as provided in Section 81-U, Chapter 41, M.G.L.
8. That this covenant shall be executed before endorsement of the approval of a definitive subdivision plan by the Planning Board and shall take effect upon the endorsement of approval.
9. Upon final completion of the construction of ways and installation of municipal services as specified herein, on or before _____, the Planning Board shall release this covenant by an appropriate instrument, duly acknowledged. Failure to complete construction and installation within the time specified herein or such later date as may be specified by the Planning Board with a written concurrence of the applicant, shall result in automatic rescission of the approval of the plan. Upon performance of this covenant with respect to any lot, the Planning Board may release such lot from this covenant by an appropriate instrument duly recorded.
10. Nothing herein shall prohibit the applicant from varying the method of securing the construction of ways and installation of services from time to time or from securing by one, or in part by one and in part by another of the methods described in M.G.L., Chapter 41, Section 81-U, as long as such security is sufficient in the opinion of the Planning Board to secure performance of the construction and installations; and

For title, see deed from _____, dated _____, recorded in Worcester District Registry of Deeds, Book _____, Page _____, or registered in Worcester Land Registry District as Document No. _____, and noted on Certificate of Title No. _____, in Registration Book _____, Page _____.

The mortgagee agrees to hold the mortgage subject to the covenants set forth above and agrees that the covenant shall have the same status, force, and effect as though executed and recorded

before the taking of the mortgage and further agrees that the mortgage by subordinate to the above covenant.

_____, spouse of the undersigned applicant hereby agrees that such interest as I, we, may have in the premises shall be subject to the provisions of this covenant and insofar as is necessary releases all rights of tenancy by the dower of homestead and other interests therein.

IN WITNESS WHEREOF we have hereunto set our hands and seals this _____ of _____, 2_____.

Majority of the Leicester Planning Board

_____	_____
owner	
_____	_____
spouse of owner	
_____	_____
Mortgagee	

One acknowledgement must be completed for each of the following: Planning Board representative, Owner or owners, Spouse of the owner, Mortgagee

COMMONWEALTH OF MASSACHUSETTS

Worcester, ss. _____, 2_____

Then personally appeared the above-named _____ and acknowledged the foregoing instrument to be his/her/its free act and deed, before me.

Signature of Notary Public

My commission expires: _____

Appendix C: Definition of Clean Fill

Note: The definition of Clean Fill is excerpted from the Town of Leicester Zoning Bylaws, as amended through October 2004.

Town of Leicester Zoning Bylaw, Section 1.3:

CLEAN FILL: Clean fill shall be friable soil containing no stumps or roots greater than 4" in diameter and shall not contain concrete, brick, asphalt, metal or other trash or debris and shall be free of contamination as defined by the Massachusetts Department of Environmental Protection (DEP).

Appendix D: Forest Cutting Bylaw

Note The Forest Cutting Bylaw is included as an Appendix to the Subdivision Regulations for reference-purposes only, and is re-printed from the Town of Leicester General Bylaw, as amended through May 2, 2005.

FOREST CUTTING

1. No person shall engage in major forest cutting operations with the Town of Leicester before obtaining a permit from the Leicester Conservation Commission.
2. Major forest cutting operation shall be defined as the cutting of more than 30% of the standing timber over 8" Diameter Breast High (DBH) per acre, or clear cutting of more than 10 acres within 2 weeks or any cutting which included 30 acres or more.
3. Person shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof administrative agency, public or quasi-public corporation, or body, or any other legal entity or its legal representative, agents or assigns excluding state and federal governments operating on state or federal lands.
4. Any person may obtain from the Leicester Conservation Commission an exemption from this by-law by demonstrating possession of (1) an approved cutting plan issued by the State of Massachusetts Forester under the Massachusetts Forest Cutting Practices Act G.L. Chapter 132, Section 41 or (2) a final order of conditions issued under the Wetland's Protection Act, G.L. Chapter 131, Section 40 which, in the Conservation Commission's opinion adequately covers the forestry activity proposed.
5. The applicant shall apply in writing, including a copy of the proposed cutting plan, to the Conservation Commission by Certified Mail or hand delivery to the Town Clerk for the Town of Leicester to be forwarded to the Conservation Commission. A public hearing will be held within 14 days after 5 days notice of hearing is published in a local newspaper. The cost of the newspaper notice will be paid by the applicant.
6. The Conservation Commission will issue a permit, when the required cutting plan is in compliance with Massachusetts General Laws Chapter 132, Section 40, and all Forest Practices adopted under Chapter 132 Section 41, or a denial of permit, with written reasons within 5 days of the public hearing.
7. If a major forest cutting operation involves the removal, filling, dredging, or altering of any bank, fresh water wetland, flat, marsh, meadow, bog, swamp, creek, river, stream, pond, or land, under said waters of any land subject to flooding, a Notice of Intent must be filed under Massachusetts General Laws Chapter 131, Section 40, prior to issuance of a permit. Definitions set forth in said chapter and section are hereby made a part of this by-law.
8. The permit, if issued, shall contain conditions necessary to protect the public health, safety and welfare, the environment, future forest growth, recreation, wildlife habitat and aesthetics.
9. The Conservation Commission may require posting of a bond with surety, running to the municipality, to secure faithful and satisfactory performance of work, in such sum and upon such conditions as the Conservation Commission may require. The amount of such bond shall not exceed the estimated cost of work required or the restoration of affected lands and properties if the work is not performed as required, whichever is greater. Forfeiture of any such bond shall be recoverable at the suit of the municipality in Superior Court. Such bond shall be released upon completion of the major forest cutting operation as per the proposed cutting plan previously submitted.
10. Any person aggrieved by a decision of the Conservation Commission, may within 10 days from said Commission's decision, appeal such decision to Superior Court. The Party making such appeal shall at the same time send a copy thereof by certified mail or hand delivery to the Town Clerk for the Town of Leicester to be forwarded to the Commission who conducted the hearing hereunder.
11. Whoever violates any provision of this by-law section shall be punishable by a fine of not more than one hundred dollars per acre violated. Each day or portion thereof of continuing violation shall constitute a separate offense.
12. The Leicester Conservation Commission may at a later date submit to town meeting for vote, an amount to establish a reasonable permit fee. Such fee can be charged only by vote of town meeting.

Appendix E: Wetland Bylaw

Note: The Wetland Bylaw is included as an Appendix to the Subdivision Regulations for reference-purposes only, and is re-printed from the Town of Leicester General Bylaws as amended through May 2, 2005.

WETLANDS

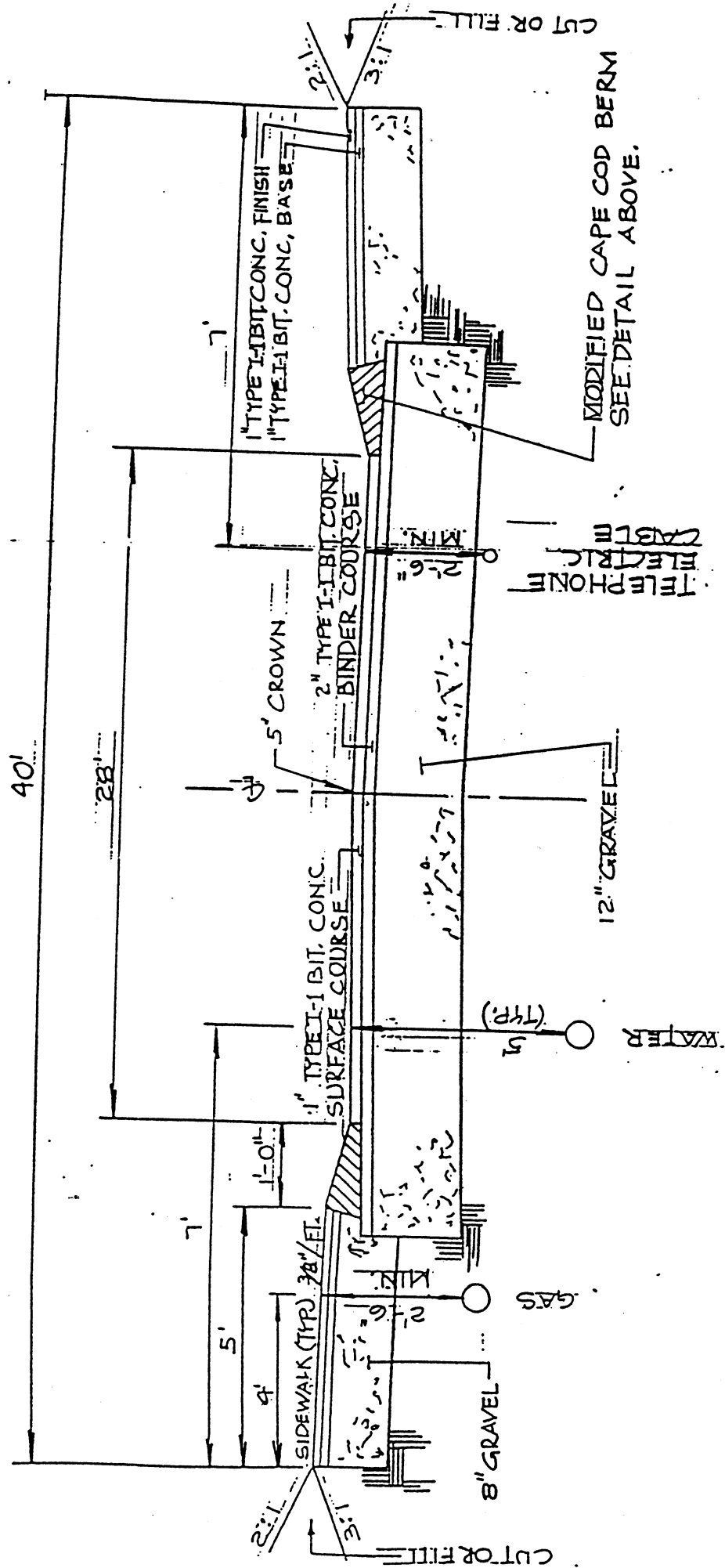
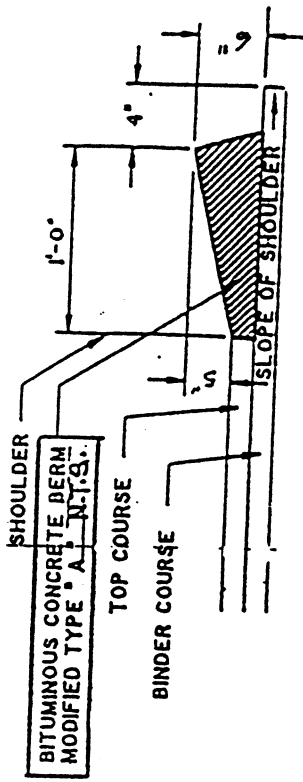
1. The purpose of this by-law is to protect the flood plains and wetland of the Town of Leicester by controlling activities deemed to have a significant effect upon water supply, ground water, flood control, erosion control, storm damage, water pollution, wildlife habitat, recreation, and aesthetics. No person shall remove, fill, dredge, or alter any area within one hundred (100) feet from any bank, fresh water wetland, flat, marsh, meadow, bog, swamp, creek, river, stream, pond, or land, or any land under said waters or any land subject to flooding, other than in the course of maintaining, repairing, or replacing but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, telephone, telegraph, and other telecommunication services, without filing written notice of his intention to so remove, fill, dredge, or alter and without receiving and complying with an Order of Conditions and provided all appeal periods have elapsed.
2. Written notice shall be sent by certified mail or hand delivery to the Town Clerk for the Town of Leicester, to be forwarded to the Leicester Conservation Commission, including such plans as may be necessary to describe such proposed activity and its effect on the environment, and shall include a fee based on a schedule as determined by the Conservation Commission.
3. The same notice, plans, and specifications required to be filed by an applicant under Massachusetts General Law, Chapter 131, Section 40, may be accepted as fulfilling the requirements of this by-law. The said Commission, in its discretion, may hear any oral presentations under this by-law at the same public hearing required to be held under the provisions of said Chapter 131, Section 40, of the Massachusetts General Laws. Definitions set forth in M.G.L. Chapter 131, Section 40 by the Department of Environmental Protection, are hereby made a part of this by-law. The commission may adopt in its regulations additional definitions, not inconsistent with this by-law. The term "person" as used in this by-law shall include any individual, group of individuals, association, partnership, corporation, company, business organization, trust, estate, the Commonwealth or political subdivision thereof in so far as permissible under State law, administrative agency, public or quasi-public corporation or body, or any other legal entity or its legal representative agents or assigns. The term "RECREATION" shall mean any leisure activity or sport taking place in or on a resource area which is dependent on the resource area and its values directly or indirectly for its conduct and enjoyment.
4. A majority of the full membership of the Leicester Conservation Commission shall make a determination as to whether or not this by-law applies to a specific situation prior to the filing of a written notice of Intent under the provisions hereof, within 10 days of the receipt of a written request sent by certified mail and hand delivery to the Town Clerk for the Town of Leicester from any person desiring such determination. The Commission, its agents, officers and employees, may enter upon the land upon which the proposed work is to be done in response to a request for a prior determination or for the purpose of carrying out its duties under this by-law and may make cause to be made such examination or survey as deemed necessary.
5. The Conservation Commission is empowered to deny permission, for any removal, dredging, filling, or altering of subject lands within the Town of Leicester by vote of two-thirds (2/3) of the full membership of the Conservation Commission, if, in its judgment, such denial is necessary to preserve environmental quality of either or both the subject lands and contiguous lands. Due consideration shall be given to possible effects of the proposal on all values to be protected under the by-law and to any demonstrated hardship on the petitioner by reason of a denial, as brought forth at the public hearing.
6. The Commission may, as an alternative to a denial, impose conditions as it deems necessary to contribute to the protection and preservation of subject lands in accordance with the purposes of this by-law by a vote of the majority of the full commission. Any Order of Conditions issued under this by-law may be subject to, but not limited to, the same constraints and may be identical to any such Order issued by the Conservation Commission under the provisions of Massachusetts General Laws, Chapter 131, Section 40.
7. Any person aggrieved by any decision of the Conservation Commission, may, within 10 days from said commission's decision, appeal such decision to Superior Court. The party making such appeal shall at the same time

send a copy thereof by certified mail or hand delivery to the Town Clerk for the Town of Leicester, to be forwarded to the Conservation Commission who conducted the hearing hereunder.

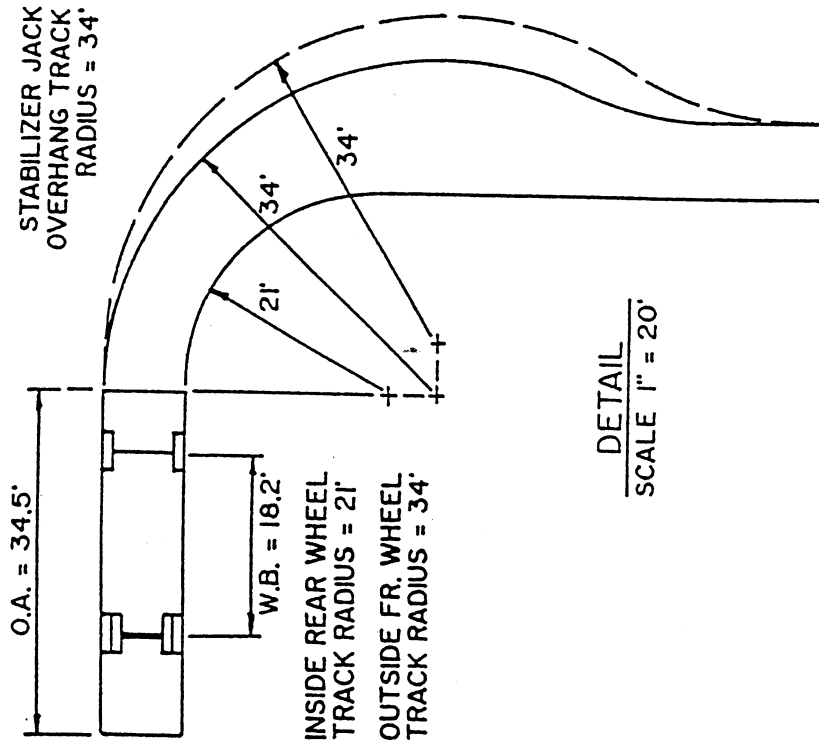
8. The Conservation Commission may require posting of a bond with surety, running to the municipality, to secure faithful and satisfactory performance of work required by any Order of Conditions in such sum and upon such conditions as the Conservation Commission may require. The amount of such bond shall not exceed the estimated cost of the work required or the restoration of affected lands and properties if the work is not performed as required, whichever is greater. Forfeiture of any such bond shall be recoverable at the suit of the municipality in Superior Court. Such bond shall be released upon issuance of a Certificate Of Compliance.

9. The notice required by the first paragraph of this by-law shall not apply to emergency projects necessary for the protection of the health or safety of the citizens of Leicester and to be performed or ordered to be performed by an administrative agency of the Commonwealth or to the Town. Emergency projects shall mean any projects certified to be an emergency by the Department of Environmental Protection and the Conservation Commission if this by-law and Massachusetts General Laws, Chapter 131, Section 40, are both applicable, or by the Conservation Commission if only this by-law is applicable. In no case shall any removal, filling, dredging, or alteration authorized by such certification extend beyond the time necessary to abate the emergency.

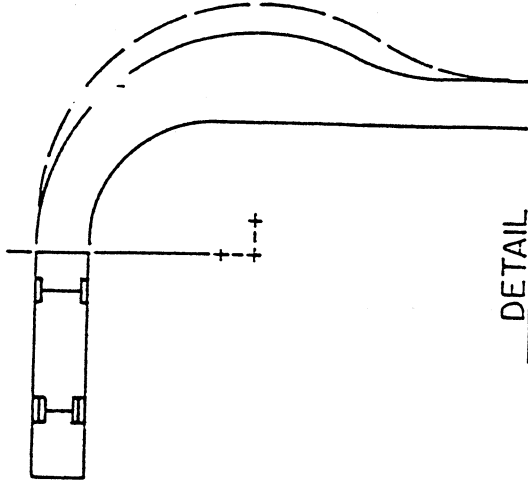
Appendix F: Typical Street Cross Section & Turning Radius
Template



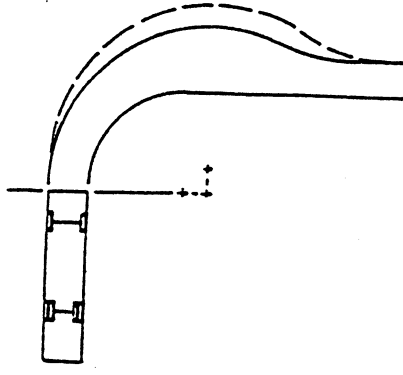
TYPICAL STREET CROSS SECTION
N.T.S.



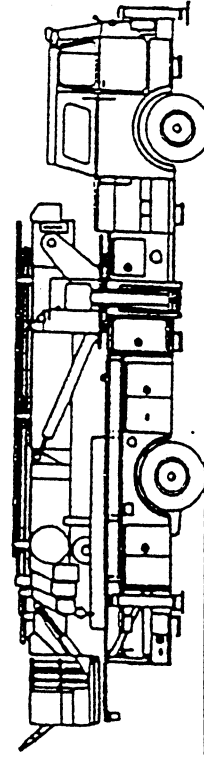
DETAIL
SCALE 1" = 20'



DETAIL
SCALE 1" = 30'



DETAIL
SCALE 1" = 40'



AERIALSCOPE 75'

TURNING RADIUS TEMPLATE LEICESTER FIRE DEPARTMENT

PREPARED BY

Charles L. Rowley & Associates
Civil Engineers & Surveyors
West Wareham, Ma.

Appendix G: Planning Board Fee Regulations



Phone: 508-892-7019
FAX: 508-892-7064

**TOWN OF LEICESTER
PLANNING BOARD
3 Washburn Square
LEICESTER, MASSACHUSETTS, 01524-1333**

**LEICESTER PLANNING BOARD
REGULATIONS GOVERNING FEES
AND
FEE SCHEDULES**

Adopted May 6, 2003
Amended March 7, 2006

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1.0 Introduction

On November 19, 2002, the Leicester Planning Board held a public hearing, pursuant to MGL Ch.41, §81Q and MGL Ch.40A, §9, to consider proposed regulations governing fees and a new schedule of fees for review conducted by the Planning Board and its consultants. The public hearing was continued several times. At the close of the public hearing on May 3, 2003, the Planning Board voted to adopt said regulations governing fees and new schedule of fees. This document, subject to revision from time to time in a manner spelled out herein, constitutes the current fee schedule and rules governing the imposition of fees on the various types of applications that come before the Planning Board. On December 20, 2005, the Planning Board held a public hearing to amend these regulations in accordance with Section 6.0 herein. The public hearing was continued to January 17, 2006, February 7, 2006, and March 7, 2006. At the close of the public hearing on March 7, 2006 the Board voted to approve the proposed amendments, which are incorporated herein.

1.1 *Purpose*

These regulations and fee schedules have been adopted to produce a schedule of fees which accurately reflects the costs of technical and legal review of applications to the Planning Board; to take advantage of the procedures offered by MGL c. 44, s. 53G; to establish a review procedure in the selection of consultants; and to promote informed decision-making by the Planning Board.

1.2 *General*

The Planning Board shall impose reasonable fees for the review of applications that come before it. One or both of the following fee structures (Section 2.0 Application Fees and Section 3.0 Project Review Fees) may apply to various types of applications. Where both fees are applicable, fees shall be paid by separate checks.

2.0 Application Fees

2.1 *Applicability*

The Planning Board shall assess an Application Fee to cover the cost of processing all Planning Board applications. Such Application Fees shall be deposited into the general treasury of the Town. This Application Fee applies to all applications except those exempted in Section 2.7 below. Application Fees are to be submitted as part of the initial applications. An application filed without the inclusion of these fees shall be determined to be incomplete and no review work shall commence until the fee has been paid in full.

2.2 *Refunds of Application Fees*

Once the review process has been started, there shall be no refunding of Application Fees, including the case of withdrawal of the application by the Applicant. For this reason, it is important that Applicants consult with the Planning Board office prior to formal application to insure that the appropriate permits and review are being sought.

2.3 *Modification of Application*

For those applications that are assessed Application Fees calculated in part by the number of lots or units being sought, which during the review process undergo a change in design resulting in a change in the number of lots or units being sought, the following rules shall apply:

- a.) If the number of lots or units being sought increases over the number previously sought, the Applicant shall pay a fee equivalent to the difference between the fee originally paid and the fee that would have been paid had the original submission included these additional lots or units. No review of these additional lots or units shall take place until this additional fee is paid to the Planning Board office, and failure to make this payment after requesting additional lots shall be grounds for denial of the application.
- b.) If the number of lots or units being sought decreases from the number originally sought, a refund of that portion of the application fee predicted on those lots or units shall be granted only if, in the judgment of the Planning Board, no review of those lots or units has taken place or no incremental expense has been incurred by the Board in the review process which would not have been incurred in the absence of the lots or units to be deleted. Such judgment by the Planning Board shall require a motion carried by a majority of elected or appointed Board members and the Board's judgment in such matters shall be deemed final.

2.4 Schedule of Application Fees:

The following is the schedule of fees for all types of applications that come before the Planning Board. This schedule supersedes all previous schedules as they appeared in the Leicester Zoning Bylaws, the Rules and Regulations for the Subdivision of Land, and any listings which may have been compiled from time to time for the benefit of Applicants.

Type of Application	Application Fee
a) ANR Plans	\$150
b) Preliminary Subdivision Plans	\$500, plus \$50 per lot/unit for every lot/unit above 5, up to a maximum of \$5,000
c) Definitive Subdivision Plan	\$1,000 plus \$50 per lot/unit for every lot/unit above 5, up to a maximum of \$10,000
d) Modification of a Definitive Subdivision Plan	\$500
e) Special Permits, except as listed under f) & g). below	\$500
f) Special Permit for Senior Village Developments and Recreational Developments	\$500, plus Preliminary Subdivision or Definitive Subdivision Fee, as applicable.
g) Special Permit for waiver of dimensional requirements for municipal public utilities (Section 4.3.0.2)	\$0 (cost of legal advertisement and notification may apply)
h) Site Plan Review, except as listed under i), below	\$500
i) Site Plan Review for new commercial structures over 3,000 square feet.	\$3,000
j) Request to Release Lots from Covenant or Reduce Amount of Performance Guarantee	\$100
k) Request for public road acceptance	\$200
l) Lost document fee for documents that require signatures of Planning Board members	\$25
m) Major and Complex Projects	See Section 2.7

2.5 *Legal Advertising and Abutter Notification Expenses*

In addition to the Application Fees in Section 2.4, the Applicant shall be responsible for the cost of legal advertisement and notification of abutters and parties in interest, as applicable to a particular application. If a project is also subject to a Project Review Fee, the Applicant may choose to have these expenses paid from the 53G Account.

2.6 *Multiple Applications*

When more than one type of application is being sought at the same time (for the same project), only the highest of the applicable Application Fees shall be collected, and not the sum of those fees.

2.7 *Major and Complex Projects*

Additional Application fees may also be assessed for "Major and Complex" Projects. For the purposes of assessing a fee under this subsection 2.7, a major and complex project is a project for which the Town is likely to incur substantial administrative expense during review, approval, and construction of the project due to factors such as the novelty and technical complexity of the project; and/or the potential for adverse impacts; and/or the need for close scrutiny of the project; and/or the size and scope of the project. Such fee shall be determined on a case by case and shall be based upon the Town's estimated administrative expenses.

2.8 *Exemptions and Waivers of Application Fees:*

- a.) Applications submitted by the Town of Leicester, other Town Departments, or any of the Town Water and Sewer Districts are exempt from Application Fees, except that the Planning Board may require reimbursement of legal advertisement and abutter notification fees.
- b.) The Planning Board may waive or reduce any fee under these provisions, if in the opinion of the Board, unusual circumstances regarding the subject project or the Applicant result in an application fee not envisioned or intended with the adoption of these regulations and fees schedules.

3.0 Project Review Fees

3.1 *Applicability*

- a.) In addition to Application Fees, the Planning Board may also impose a Project Review Fee. This fee is to be deposited into a special account as enabled by M.G.L. Chapter 44, Section 53G, referred to herein as the "53G Account". This fee shall be imposed on those applications which, in the judgement of the Planning Board, require the services of outside consultants for the review process due to the size, scale or complexity of a proposed project, because of a project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers or other appropriate professionals who can assist the Board in analyzing a project to ensure compliance with all relevant laws, ordinances, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.
- b.) Should it become apparent to the Planning Board that an application requires the services of outside consultants for proper review, the Board may require the imposition of a Project Review fee, *even if it is not normally part of the review process for that type of application.*

3.2 Procedures

- a.) Monies shall be collected from the Applicant and deposited into the 53G Account upon submission of the application. Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.
- b.) Outside consultants retained by the Planning Board to assist in the review of an application shall be paid from this account.
- c.) The Planning Board shall determine the amount of initial deposit to be made as put forth in Section 3.3, and the amount of any additional funds required during the process, should the Applicant's 53G Account approach depletion.
- d.) Failure of an Applicant to pay a review fee shall be grounds for denial of the application.
- e.) Any excess amount attributable to a particular project, including accrued interest, will be repaid to the Applicant, or the Applicants successor in interest, upon final action on an application as specified under Section 4.2. 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 establishing such succession in interest.

3.3 Schedule of Project Review Fees (Initial Deposit)

The following Project Review Fees for the indicated application types are to be submitted with their initial applications. These fees may be modified at the sole discretion of the Planning Board as warranted by a particular project.

Type of Application	Initial Project Review Fee
a) ANR Plan	Cost of any necessary inspection by Town Engineer
b) Preliminary Subdivision Plan	\$3,000
c) Definitive Subdivision Plan	\$6,000*
d) Special Permits, except as listed under e) & f), below.	\$2,000*
e) Special Permits for Senior Village Developments	Same as Preliminary or Definitive Subdivision, as applicable
f) Special Permit or Site Plan Review applications not requiring outside consultant review	Cost of advertising & notification
g) Site Plan Review	\$2,000*
h) Site Plan Review for commercial structures over 3,000 square feet	\$4,000*
i) Request to Release Lots from Covenant or Reduce Amount of Performance Guarantee	Cost of Town inspection-minimum of \$500 deposit (unless there is a remaining balance of \$1,000 or more in the review account for the applicable project).
j) Request for public road acceptance	\$1,000 (unless there is a remaining balance of \$1,000 or more in the review account for the applicable project).
k) Major and Complex Projects	See Section 3.4

*The Initial Project Review Fee covers general civil engineering review. Projects requiring additional consultant review, such as a traffic consultant, may require an additional review fee.

3.4 Major and Complex Projects

A fee may also be assessed for "Major and Complex" Projects. For the purposes of assessing a fee under this subsection 3.4, a major and complex project is a project for which the Board is likely to require substantial outside technical and/or legal assistance due to factors such as the novelty and technical complexity of the project; and/or the potential for adverse impacts; and/or the need for close scrutiny of the project; and/or the size and scope of the project. Such fee shall be determined on a case by case basis in consultation with the Town Engineer and other Town Departments and shall be based upon the estimated expenses for professional services required to review and/or inspect the project for compliance the Town's Bylaws and Regulations.

3.5 Other Types of Applications

The Planning Board may impose outside review fees for other types of applications or review not specifically listed in Section 3.3 (e.g. complicated ANR plans, request for review of substandard roadways). Such fees shall be based upon an estimate of the anticipated review costs.

3.6 Multiple Applications

When more than one type of application is being sought at the same time (for the same project), only the highest of the applicable Project Review Fees shall be collected for deposit into the 53G Account, and not the sum of those fees.

3.7 Replenishment/Subsequent deposits.

When the balance in an Applicant's 53G Account falls below twenty-five percent (25%) of the initial Project Review Fee the Planning Board shall consider whether to require a supplemental Project Review Fee to cover the remaining project review. The Planning Board may also require a supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process.

4.0 Administration of Project Review Fees

4.1 General

Funds collected from various Applicants for the 53G Account shall be submitted to the Town Treasurer for deposit into an account separate from other funds and shall be administered in accordance with MGL Ch. 44, Section 53G.

4.2 Excess Fees

Excess fees in the 53G Account including accumulated interest, shall be returned to the Applicant at the conclusion of the review process as defined herein:

- a.) With the approval or disapproval (final action) of a Preliminary Subdivision Plan.
- b.) With the disapproval (final action) of a Definitive Subdivision Plan.
- c.) With the release of the performance bond at the end of construction of an approved Definitive Subdivision Plan.
- d.) With the final inspection or the approval or disapproval (final action) on all other types of applications under the Leicester Zoning By-law, whichever comes later.

4.3 *Delinquent Accounts*

All costs of collection associated with past due accounts shall be borne by the Applicant. A Stop Work Order may be placed on any projects with an outstanding balance.

5.0 Appeal of the Selection of the Consultant(s)

The Applicant may appeal the selection of an outside consultant to the Board in accordance with MGL Ch. 44, Section 53G. 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 of an educational degree in or related to the field at issue, or three or more years of practice in the field at issue or a related field. The Applicant must specify the specific grounds which the Applicant claims constitute a conflict of interest or a failure to meet minimum professional requirements. The required time limits for action upon an application by the Planning Board shall be extended by duration of the administration appeal.

6.0 Revision of Fee Schedules and Regulations Governing Fees

The Planning Board may review and revise its regulations and fee schedules from time to time, following an advertised public hearing. Any amendments to these regulations shall take effect upon filing a copy the amendments with the Leicester Town Clerk.

Adopted by the Leicester Planning Board on the 6th day of May, 2003, amended the 7th day of March, 2006

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APPENDIX H: MGL CH.41, SECTION 81U

Chapter 41: Section 81U. Approval, modification or disapproval of plan by board; prerequisites for decision

Section 81U. When a definitive plan of a subdivision is submitted to the planning board, as provided in section eighty-one O, a copy thereof shall also be filed with the board of health or board or officer having like powers and duties. Such health board or officer shall, within forty-five days after the plan is so filed, report to the planning board in writing, approval or disapproval of said plan, and, in the event of disapproval, shall make specific findings as to which, if any, areas shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefor in such report, and where possible, shall make recommendations for the adjustments thereof. Failure of such board or officer to report shall be deemed approval by such board or officer. Such health board or officer shall send a copy of such report, if any, to the person who submitted said plan. When the definitive plan shows that no public or community sewer is to be installed to serve any lot thereon, approval by a board of health or officer shall not be treated as, nor deemed to be approval of a permit for the construction and use on any lot of an individual sewage system; and approval of a definitive plan for a subdivision by a board of health or officer shall not be treated as, nor deemed to be, an application for a permit to construct or use an individual sewage system on any lot contained therein.

After the hearing required by section eighty-one T and after the report of said health board or officer or lapse of forty-five days without such report, the planning board shall approve, or, if such plan does not comply with the subdivision control law or the rules and regulations of the planning board or the recommendations of the health board or officer, shall modify and approve or shall disapprove such plan. In the event of disapproval, the planning board shall state in detail wherein the plan does not conform to the rules and regulations of the planning board or the recommendations of the health board or officer and shall revoke its disapproval and approve a plan which, as amended conforms to such rules and regulations or recommendations. The planning board shall file a certificate of its action with the city or town clerk, a copy of which shall be recorded by him in a book kept for the purpose, and shall send notice of such action by registered mail, postage prepaid, to the applicant at his address stated on the application.

If the report of the board of health or board or officer having like powers and duties shall so require, the approval by the planning board shall be on condition that no building or structure shall be built or placed upon the areas designated without consent by such board of health or officer. In the event approval by the board of health or board or officer having like powers and duties is by failure to make a report, the planning board shall note on the plan that health approval is by failure to report.

In the case of a nonresidential subdivision where a preliminary plan has been duly submitted and acted upon or where forty-five days has elapsed since submission of the said preliminary plan, and then a definitive plan is submitted, the failure of a planning board either to take final action or to file with the city or town clerk a certificate of such action regarding the definitive plan submitted by an applicant within ninety days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof.

Notice of such extension of time shall be filed forthwith by the planning board with the city or town clerk.

In the case of a subdivision showing lots in a residential zone, where a preliminary plan has been acted upon by the planning board or where at least forty-five days has elapsed since submission of the preliminary plan, an applicant may file a definitive plan. The failure of a planning board either to take final action or to file with the city or town clerk a certificate of such action on the definitive plan within ninety days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the planning board with the city or town clerk.

In the case of a subdivision showing lots in a residential zone, where no preliminary plan has been submitted and acted upon or where forty-five days has not elapsed since submission of such preliminary plan, and a definitive plan is submitted, the failure of a planning board either to take final action or to file with the city or town clerk a certificate of such action regarding the definitive plan submitted by an applicant within one hundred thirty-five days after such submission, or such further time as may be agreed upon at the written request of the applicant, shall be deemed to be an approval thereof. Notice of such extension of time shall be filed forthwith by the planning board with the city or town clerk.

Before endorsement of its approval of a plan, a planning board shall require that the construction of ways and the installation of municipal services be secured by one, or in part by one and in part by another, of the methods described in the following clauses (1), (2), (3) and (4) which method or combination of methods may be selected and from time to time varied by the applicant:

(1) By a proper bond, sufficient in the opinion of the planning board to secure performance of the construction of ways and the installation of municipal services required for lots in the subdivision shown on the plan, and the planning board may require that the applicant specify the time within which such construction shall be completed.

(2) By a deposit of money or negotiable securities, sufficient in the opinion of the planning board to secure performance of the construction of ways and the installation of municipal services required for lots in the subdivision shown on the plan, and the planning board may require that the applicant specify the time within which such construction shall be completed.

(3) By a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed; provided, that a mortgagee who acquires title to the mortgaged premises by foreclosure or otherwise and any succeeding owner of such premises or part thereof may sell any such lot, subject to that portion of the covenant which provides that no lot shall be built upon until such ways and services have been provided to serve such lot; and provided, further, that nothing herein shall be deemed to prohibit a conveyance by a single deed, subject to such covenant, of either the entire parcel of land shown on the subdivision plan or of all lots not previously released by the planning board. A deed of any part of the subdivision in violation hereof shall be voidable by the grantee prior to the release of the covenant but not later than three years from the date of such deed.

(4) By delivery to the planning board of an agreement executed after the recording of a first mortgage covering the premises shown on the plan or a portion thereof given as security for advances to be made to the applicant by the lender, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of funds sufficient in the opinion of the planning board and otherwise due the applicant, to secure the construction of ways and the installation of municipal services. Said agreement shall also provide for a schedule of disbursements which may be made to the applicant upon completion of various stages of the work, and shall further provide that in the event the work is not completed within the time set forth by the applicant, any funds remaining undisbursed shall be available for completion.

Any covenant given under the preceding paragraph and any condition required by the health board or officer shall be either inscribed on the plan or contained in a separate document, referred to on the plan.

The penal sum of any such bond held under clause (1) or any deposit held under clause (2) or any amount of funds retained pursuant to an agreement under clause (4) shall bear a direct and reasonable relationship to the expected cost including the effects of inflation, necessary to complete the subject work. Such amount or amounts shall from time to time be reduced so that the amount bonded, deposited or retained continues to reflect the actual expected cost of work remaining to be completed.

Upon the completion of the construction of ways and the installation of municipal services in accordance with the rules and regulations of the planning board, security for the performance of which was given by bond, deposit or covenant, or upon the performance of any covenant with respect to any lot, the applicant shall send by registered mail to the city or town clerk and the planning board a written statement that the said construction or installation in connection with which such bond, deposit or covenant has been given has been completed in accordance with said rules and regulations, such statement to contain the address of the applicant. If the planning board determines that said construction or installation has been completed, it shall release the interest of the town in such bond and return the bond or the deposit to the person who furnished the same, or release the covenant by appropriate instrument, duly acknowledged, which may be recorded. If the 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 clerk of the city or town the details wherein said construction or installation fails to comply with its rules and regulations and upon failure so to do within forty-five days after the receipt by said clerk of said statement 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 day period expires without such specification, or without the release and return of the bond or return of the deposit or release of the covenant as aforesaid, the said clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

Any such bond may be enforced and any such deposit may be applied by the planning board for the benefit of such city or town, as provided in section eighty-one Y, upon failure of the performance for which any such bond or deposit was given to the extent of the reasonable cost to such city or town of completing such construction and installation.

In any town which accepts the provisions of this paragraph, the proceeds of any such bond or deposit shall be made available to the town for expenditure to meet the cost and expenses of the

municipality in completing the work as specified in the approved plan. If such proceeds do not exceed one hundred thousand dollars, the expenditure may be made without specific appropriation under section fifty-three of chapter forty-four; provided, however, that such expenditure is approved by the board of selectmen. The provisions of this paragraph shall not apply to cities or to towns having town councils.

Before approval of a plan by a planning board, said board shall 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 and not unreasonable in area in relation to the area of the land being subdivided and the prospective uses of such land, and if so determined said board shall by appropriate endorsement on the plan require that no building may be erected on such park or parks for a period of not more than three years without its approval.