



RULES AND REGULATIONS  
GOVERNING THE SUBDIVISION OF LAND  
IN THE TOWN OF BERKLEY, MASSACHUSETTS

BERKLEY PLANNING BOARD  
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BERKLEY, MA 02779

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**RULES AND REGULATIONS  
GOVERNING THE SUBDIVISION OF LANDS  
BERKLEY, MASSACHUSETTS**

**(Adopted under the Subdivision Control Law, sections 81-K to 81 GC inclusive, Chapter 41,  
M.G.L.)**

**SECTION I. INTRODUCTION**

**A. PURPOSE**

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

**B. AUTHORITY**

Under the authority vested in the Planning Board of the Town of Berkley by Section 31-Q of Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Berkley such rules and regulations shall be effective on and after the 28th day in April 2011, and shall supersede any rules and regulations previously in effect.

**C. PRIVATE CONSULTANT REVIEW**

The Planning Board’s authority to impose fees to engage consultants to review plans regulated by these Regulations is derived from M.G.L., Chapter 44, Section 53G. If the Applicant is of the opinion the consultant selected by the Planning Board has a conflict of interest or does not possess either an educational degree in or related field at issue, or three or more years of practice in the field at issue or a related field, the Applicant can file an Administrative Appeal to the Board of Selectmen questioning the choice of consultant. If the Administrative Appeal is not decided upon by the Board of Selectmen within one month after filing the appeal, the consultant selected by the Planning Board shall stand.

## SECTION II. GENERAL

### A. DEFINITIONS

<b>Abutter</b>	The owner of land located within 300 ft. of any bound of the subdivision including land on the opposite side of a street.
<b>Agriculture</b>	The normal maintenance or improvement of land in agricultural or aquaculture use as defined by the Massachusetts Wetlands Protection Act and its implementing regulations.
<b>Applicant</b>	The owner or his agent, representative, or assigns.
<b>As-Built</b>	A completed Engineer's plan for a finished project as required by the Berkley Planning Board.
<b>Board</b>	The Planning Board of the Town of Berkley, Massachusetts.
<b>Building</b>	An independent structure having a roof supported by columns or walls, resting on its own foundations and designed for the shelter, housing or enclosure of persons, animals, chattel or property of any kind.
<b>Certified</b>	"Certified by (or endorsed by) The Planning Board", as applied to a plan or other instrument required or authorized by the Subdivision Control Law to be recorded, shall mean bearing a certification or endorsement signed by a majority of the members of the Planning Board, or by its chairman or clerk or any other person authorized by it to certify or endorse its approval or other action and named in a written statement to the Register of Deeds and Recorder of the Land Court, signed by a majority of the board.
<b>Cul-de-Sac</b>	A subdivision street affording restricted access to lots, with only one way in/out with a maximum length of 500 feet measured to the center of the radius.
<b>Definitive Plan</b>	The plan of a subdivision as submitted (with appropriate application) to the Board for approval, to be recorded in the Registry of Deeds or filed with the Land Court when approved by the Board, and such plan when approved and recorded; all as distinguished from a Preliminary Plan.
<b>Designer</b>	Professional Civil Engineer or Land Surveyor registered to practice in Massachusetts.
<b>Detention</b>	The temporary storage of stormwater runoff in a stormwater management facility with the goals of controlling peak discharge rates and providing gravity settling of pollutants.
<b>Detention Facility</b>	A detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.

<b>Developer</b>	A person (as hereinafter defined) who develops under a plan of a subdivision approved under Section III of these Rules and Regulations.
<b>Easement</b>	A right acquired by public authority or other person to use or control property for a utility or other designated public purpose.
<b>General Laws</b>	The General Laws of Massachusetts (abbreviated G.L.) In case of a rearrangement of the General Laws, any citation of particular sections of the General Laws shall be applicable to the corresponding sections in the new codification.
<b>Impervious Cover</b>	Those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).
<b>Infiltration</b>	The flow of water from the ground surface down into the soil.
<b>Infiltration Facility</b>	Any structure or device designed to infiltrate retained water to the ground. These facilities may be above grade or below grade.
<b>Land Disturbance Activity</b>	Any activity that changes the volume or peak flow discharge rate of rainfall runoff from the land surface, including: grading, digging, cuffing, scraping, excavating of soil, placement of fill materials, paving construction, substantial removal of vegetation, any activity which bares soil or rock or involves the diversion or piping of any natural or man-made watercourse.
<b>Lot</b>	“Lot” shall mean an area of contiguous land in one ownership, with definite boundaries, used or available for use, as the site of one or more buildings.
<b>Low Impact Development</b>	A land development design approach to managing stormwater runoff. LID emphasizes conservation and use of on-site natural features to protect water quality. This approach implements engineered small-scale hydrologic controls to replicate the pre-development hydrologic regime of watersheds through infiltrating, filtering, storing.
<b>Municipal Service</b>	“Municipal Service” shall mean public utilities furnished by the Town of Berkley such as water, sewage, gas and electricity.
<b>Municipal Storm Drain System Or Municipal Separate Storm Sewer System (Ms4)</b>	The system of conveyances designed or used for collecting or conveying stormwater, including any road with a drainage system, street, gutter, curb, inlet, piped storm drain, pumping facility, retention or detention basin, natural or man-made or altered drainage channel, reservoir, and other drainage structure that together comprise the storm drainage system owned or operated by the Town of Berkley.
<b>Nonpoint Source Pollution</b>	Pollution from any source other than any discernible, confined, and discrete conduit or waterway, and shall include, but not be limited to,

pollutants from agricultural, mining, construction, subsurface disposal and urban runoff sources.

<b>Owner</b>	As applied to real estate, the person holding the ultimate fee simple title to a parcel, tract or lot of land, as shown by the record in the Land Registration Office, Registry of Deeds or Registry of Probate.
<b>Non-Residential Plan</b>	Shows lots for uses other than residential either solely nonresidential or mixed residential/non residential.
<b>Person</b>	An individual, or two or more individuals or a group or association of individuals, a partnership or a corporation having common or undivided interests in a tract of land.
<b>Preliminary Plan</b>	A plan of a proposed subdivision or re-subdivision of land drawn on tracing paper, or a print thereof, showing (a) the subdivisions name, boundaries, north point, date, scale, legend and title Preliminary Residential Plan" or 'Preliminary Non-Residential Plan'; (b) the names of the record owner and the applicant and the name of the designer, engineer, or surveyor; (c) the names of all the abutters, as determined from the most recent local tax list; (d) the existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner; (e) the proposed system of drainage, including adjacent existing natural waterways, in a general manner; (~ the approximate boundary lines of proposed los, with approximate areas and dimensions; (g) the names, approximate location and widths of adjacent street; (h) and the topography of the land in a genera] manner; (i) all wetlands as defined by MGL 131.
<b>Porous Pavement</b>	A surface that presents an opportunity for precipitation to infiltrate into the ground.
<b>Recharge</b>	The replenishment of water to aquifers.
<b>Recorded</b>	Recorded in the Bristol County, Northern District, Registry of Deeds, except that, as affecting registered land, it shall mean filed with the Recorder of the Land Court.
<b>Redevelopment</b>	Any construction, alteration, or improvement exceeding one acre in area where existing land use is high-density commercial, industrial, institutional or multi-family residential.
<b>Register of Deeds</b>	The Register of Deeds of Bristol County, Northern District, and, when appropriate shall include the Recorder of the Land Court.
<b>Registered Mail</b>	Registered or Certified mail.
<b>Registry of Deeds</b>	The Bristol County, Northern District, Registry of Deeds, and when appropriate, shall include the Land Court.
<b>Residential Plan</b>	All lots shown are for residential use.

<b>Roadway</b>	That portion of a way, which is designed and constructed for vehicular travel.
<b>Resource Area</b>	Any area protected under the Massachusetts Wetlands Protection Act, Massachusetts Rivers Act, or Berkley Conservation Commission regulations.
<b>Soil Erosion And Sediment Control Plan</b>	A plan showing the control of soil erosion and sedimentation on or from a development site and is required to be submitted as part of these rules and regulations.
<b>Special Account</b>	An Account established in accordance with MGL, Chapter 44, Section 53G which allows the Planning Board to engage consultants to review plans regulated by these Regulations.
<b>Start Of Construction</b>	The first land-disturbing activity associated with a development, including but not limited to land preparation such as clearing, grading and filling; installation of streets and walkways; excavation for basements, footings, piers, or foundations; erection of temporary forms; and installation of accessory buildings such as garages.
<b>Stormwater Management Plan</b>	A plan showing the management of stormwater on or from a development site and is required to be submitted as part of these rules and regulations.
<b>Stormwater Runoff</b>	Water resulting from precipitation that flows overland.
<b>Stormwater Treatment Practices</b>	Measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies.
<b>Street</b>	A public way shown on a plan approved in accordance with Subdivision Control Law, or otherwise qualifying a lot for frontage under the Subdivision Control Law, which in the opinion of the Planning Board is of sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic and the installation of municipal services to serve the land abutting on such way, and the buildings erected, or to be erected, thereon.
<b>Street, Major</b>	A street which, in the opinion of the Board is being used or will be used as a thorough-fare within the Town of Berkley or which will otherwise carry a heavy volume of traffic (generally, over 700 vehicles per day).
<b>Street, Minor</b>	A street which, in the opinion of the Board is being used or will be used primarily to provide access to abutting lots and which will not be used for through traffic.



<b>Street, Secondary</b>	A street intercepting one (1) or more minor streets and which, in the opinion of the Board, is used or will be used to carry a substantial volume of traffic (generally, over 150 vehicles per day) from such minor street(s) to a major street or community facility, and normally including a principal entrance street of a large subdivision, or group of subdivisions, and any principal circulation street within such subdivisions.
<b>Subdivision</b>	The division of a tract of land into two or more lots and shall include re-subdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided: provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the Subdivision Control Law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the Clerk of the Town of Berkley certifies is maintained and used as a public way, or (L) a way shown on a plan theretofore approved and endorsed in accordance with the Subdivision Control Law, or (c) a way in existence when the Subdivision Control Law became effective in the Town of Berkley, having, in the opinion of the Planning Board, sufficient width, suitable grades, and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, of the Town of Berkley for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet. Conveyances or other instrument 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 Berkley into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision.
<b>Subdivision Control</b>	'Subdivision Control' shall mean the power of regulation the subdivision of land granted by the Subdivision Control Law.
<b>Watercourse</b>	Any body of water, including, but not limited to, lakes, ponds, rivers and streams.
<b>Waterway</b>	A channel, either natural or man-made, that directs surface runoff to a watercourse or to the public storm drain.

**B. PLAN BELIEVED NOT TO REQUIRE APPROVAL**

Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law may submit his plan together with two copies of said plan, two complete Applications "Form A", a non-refundable filing fee (Refer to Fee Schedule), and a Consultant Account Deposit (Refer to Fee Schedule) to establish a Special Account, to the Planning Board accompanied by any 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 and accompanied by a copy of said application. If the notice is given by delivery, the Town Clerk shall, if requested, give written receipt therefore.

The above Consultant Account Deposit is to establish a Special Account to pay for all reasonable reviews by professional persons required to assist the Planning Board in its general review of the plan, provided that the applicant may request at the time of the meeting with the Planning Board to review said plan, a waiver of the Consultant Account due to unusually simple circumstances. The balance of the applicant's deposit minus consultant charges shall at no time be less than 1/2 the initial deposit, and the applicant shall deposit with the Town Treasurer such additional funds as are required to restore the Special Account to the amount of the initial deposit upon notice from the Planning Board, by certified mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or below the 1/2 initial deposit.

Plan should be drawn at a scale of 1" = 40'.

Form A Plan Content - Minimum Requirements:

1. Define Streets (public or private) and street width.
2. Street names.
3. Dimensions of all lots. Include circle to show lot meets zoning. See pg. 36
4. Minimum of four permanent markers set on each lot (iron pipes or rods, concrete, granite, or fieldstone bounds or railroad spikes in pavement).
5. Use of all buildings.
6. Total area and area outside wetlands for each lot.
7. Delineated wetlands and 100 year flood line.
8. Registered Land Surveyor name, seal and signature.
9. Assessor's Map and Lot #'s of the parcel being divided.
10. Deed reference of the parcel being divided.
11. The title: "Approval Not Required Plan Drawn For (name of owner)", at a suitable scale, with date and north point.
12. Locus - clearly showing location of property.
13. Unbuildable lots shall have the following wording: "**Not A Buildable Lot Without Further Zoning Relief**"

If the Planning Board determines that the plan does not require approval, it shall without delay endorse on the plan the words "Approval under the Subdivision Control Law not required".

The Planning Board may add to such endorsement a statement of the reason approval is not required. The plan will be returned to the Applicant, and the Planning Board shall notify the Town Clerk of its action.

If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it will so inform the Applicant and return the plan. The Planning Board will also notify the Town Clerk of its action.

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

An application is NOT DEEMED SUBMITTED if it does not comply with the requirements of Section II-B of these Regulations.

### **C. 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.

### **D. ADEQUATE ACCESS FROM A PUBLIC WAY**

Where a street system within a subdivision does not connect with or have, in the opinion of the Board, adequate access from a public way, the Board may require as a condition of approval, that such adequate access be provided by the subdivider, and/or that the subdivider make physical improvements to and within such a way in accordance with the provisions of these regulations from the boundary of the subdivision to a (public) way. At a minimum, the public way shall have sight distance, grade, right of way and pavement width equal to the Rules and Regulations for roads within a subdivision.

Where the physical condition or width of a public way from which a subdivision has its access is considered by the Board to be inadequate to carry the traffic expected to be generated by such subdivision, the Board may require the subdivider to dedicate a strip of land for the purpose of widening the abutting public way to a width at least commensurate with that required within the subdivision, and to make physical improvements to and within such public way to the same standards required within the subdivision. Any such work performed within such public way shall be made only with permission of the governmental agency having jurisdiction over such way, and all costs of any such widening or construction shall be borne by the subdivider.

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

### A. REQUIREMENTS FOR SUBDIVISION OF LAND

1. The parcel of land to be developed as a subdivision must have at least 50 feet frontage on a paved Town way or a way which in the opinion of the Planning Board provides adequate access for subdivision.
2. A Definitive Plan of the subdivision must be approved by the Planning Board.
3. The developer of a subdivision must maintain the ways, drainage, & snow plowing in a timely fashion etc. until the time of the acceptance by the Town. Surety of such maintenance must be provided. If there is failure to comply, the fees will be deducted from the surety and allotted to the appropriate department.

### B. PRELIMINARY PLAN

#### 1. General

A Preliminary Plan of a subdivision may be submitted by the Applicant to the Planning Board and to the Board of Health for discussion and tentative approval, modification or disapproval by each board. An application must be filed for a non-residential subdivision. The submission of such a Preliminary Plan will enable the Applicant, the Planning Board, the Board of Health, other municipal agencies and owners of property abutting the subdivision to discuss and clarify all aspects of such subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case.

The Applicant may file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such tentative approval of a Preliminary Plan. The Planning Board will outline concerns of the Board and general requirements to be met in the Definitive Plan

A Preliminary Subdivision Plan application shall include the following:

- a. Two (2) current and properly executed Applications “ Form B”.
- b. Four (4) contact prints of the original Preliminary Plan.
- c. A non-refundable filing fee. (Refer to fee schedule)
- c. A review fee. (Refer to fee schedule). Detention areas shall be considered as lots / parcels when calculating fees.
- e. A Consultant Account Deposit for the proposed subdivision to establish a Special Account to pay for all reasonable reviews by professional persons required to assist the Planning Board in its general review of the Preliminary Plan. The applicant shall deposit with the Town Treasurer such additional funds as are required to restore the account to an amount

satisfactory to cover the cost of the consultant review after receiving notice from the Planning Board by certified mail.

- f. An application is NOT DEEMED SUBMITTED if it does not comply with the requirements of Section III, B-1 and B-2 of these Regulations.

## 2. Contents

The plan must be clearly marked as a Residential or non-Residential plan. The Preliminary Plan shall be drawn on tracing paper with pencil at a suitable scale and four (4) prints shall be filed at the office of the Planning Board and one print at the office of the Board of Health. Said plans shall be identified as a Preliminary Plan and show all the information described under the definition of the Preliminary Plan so as to form a clear Definitive Plan.

The Preliminary Plan shall be prepared by an Engineer or Surveyor registered in the Commonwealth of Massachusetts. The plan shall be at a scale of 1" = 40' or such other scale as the Planning Board may accept to show details clearly and adequately. The Preliminary Plan shall contain the following information as a minimum:

- a.) The existing and proposed centerline street profiles.
- b.) North arrow.
- c.) Location and names of adjoining property owners as shown on the most recent tax list.
- d.) Approximate lot dimensions and areas.
- e.) Location, centerline radius of curvature and width of all proposed streets.
- f.) Existing and proposed easements on site or affecting the site.
- g.) Location of water bodies, streams and wetland borders.
- h.) Topography at 5 foot contour intervals or smaller on the National Geodetic Vertical Datum.
- i.) Location of proposed drainage Systems.

## 3. Tentative Approval

The Planning Board may give such Preliminary Plan its tentative approval, with or without modification. Such tentative approval does not constitute approval of a subdivision. The Planning Board will outline concerns of the Board and general requirements to be met in the definitive plan.

## C. DEFINITIVE PLAN

### 1. General

Any person who submits a Definitive Plan of a subdivision to the Planning Board for approval shall file with the Board the following. To be considered for approval all of sections a-c below must be done upon submission. No plan will be considered unless it is complete. A copy of the proposed plan must be received by the Planning Board Engineer within 10 days of submission. Any changes to the plan must be received by the Board's Engineer no later than 10 days before a continued hearing date.

- a.) Five (5) copies, dark line on white background, of the Definitive Plan shall be submitted to the Planning Board. A copy of such plan shall also be delivered by the Applicant to each of the following: (1) Planning Board Engineer, (2) Board of Health, (3) Conservation Commission, (4) Fire Department, (5) Police Department, (6) Highway Department, and (7) Soil Board.

Proof of Delivery shall be returned to Planning Board.

- b.) Two current and properly executed Applications "Form C".
- c.) A non-refundable filing fee. (Refer to fee schedule) Detention areas shall be considered as lots / parcels when calculating fees.
- d.) A Consultant Account Deposit to establish a Special Account to pay for all reasonable reviews by professional persons required to assist the Planning Board in its determination as to the adequacy of the Definitive Plan with regard to the Subdivision Control Law and these Regulations. **The initial deposit into the Consultant Deposit Account shall not be less than five thousand (\$5,000) dollars.**

The balance of the applicant's deposit minus consultant charges shall at no time be less than one half (1/2) the initial deposit, and the applicant shall deposit such additional funds as are required to restore the Special Account to the amount of the initial deposit upon notice from the Planning Board, by certified mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or below one half (1 / 2) the initial deposit.

The failure of the applicant to make the initial deposit, and/or to maintain the Special Account in accordance with this section, shall be grounds for disapproval or for rescission of the approval of the plan.

- e.) A certified, dated listing of all abutters of said proposed subdivision with complete addresses and references to assessor's Map and Lot numbers. To ensure accuracy, this should be from the most current listing.
- f.) Method of surety must be chosen by Applicant and Applicant must be ready with surety prior to approval of plan. If Applicant does not meet surety requirement the plan will be disapproved and returned to the Applicant.
- g.) Completion of the approved subdivision shall be within **two years** of Planning Board approval.
- h.) An application is NOT DEEMED SUBMITTED if it does not comply with the requirements of Section III, C-I and C-2 of these Regulations.

## 2. Contents

The Definitive Plan shall be prepared by an Engineer or Surveyor registered in the Commonwealth of Massachusetts, and shall be clearly and legibly drawn in black India ink upon tracing cloth or mylar. The plan shall be at a scale of one-inch equal's forty feet (1" = 40') or such other scale as the Planning Board may accept to show details clearly and adequately. Sheet sizes shall not exceed 24" x 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following information:

- a.) Subdivision name, with indication of 'residential' or 'non-residential' plan, boundaries, north point, date and scale.
- b.) Name and address of record owner, Applicant and Engineer or Surveyor.

- c.) Names of all abutters as they appear in the most recent tax list, with Assessor's Map showing abutting properties, and lot number for each lot.
- d.) Lines of existing and proposed streets, ways, lots, easements, and public or common areas within the subdivision. (The proposed names of proposed streets shall be shown in pencil until they have been approved by the Planning Board.) The Planning Board has the right to reject any name.
- e.) Sufficient data to determine the location, direction, and length of every street and way line, lot line, easement line, and boundary line, and to establish these lines on the ground.
- f.) Location of all permanent monuments properly identified as to whether existing or proposed.
- g.) Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision.
- h.) Indication of purpose of easements.
- i.) Suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board (or officially authorized person). [Items j, k and l may be submitted on the same sheet in the Definitive Plan or on separate sheets). **Signature block shall be located in the lower right corner on all pages.**
- j.) Existing and proposed topography at a two (2) foot contour interval.
- k.) Existing profiles at the proposed Street right of way lines, and existing proposed profile on the centerline of proposed streets. Existing and proposed centerline elevations shall be shown at each fifty (50) foot station and at each twenty five (25) foot station in all vertical curves. The highest and lowest point of vertical curve shall be labeled with the elevation and station. The horizontal scale shall be one inch equals forty feet and a vertical scale of one inch equals forty feet (1"=40') or such other scale acceptable to the Planning Board (all elevations shall be on the National Geodetic Vertical Datum).
- l.) Proposed layout of storm drainage, water supply and sewage disposal systems; showing zero increase in peak discharge from the subdivision, designed for one hundred (100) year storm. **Drainage design must demonstrate compliance with the Massachusetts Stormwater Management Policy.**
- m.) The Flood Plain Limits for the one hundred (100) year flood as determined by the U.S. Department of Housing and Urban Development, 'Flood Insurance Rate Maps', Town of Berkley, Massachusetts, most recent map shall be shown on the proposed subdivision plans as they apply to the area in question.
- n.) The Wetland Areas within a subdivision shall be defined by survey. The Applicant is responsible to address the provisions of Section 40 of the Chapter 131, M.G.L. - Protection of Wetlands.

- o.) Any covenant or conditions are to be inscribed on the plan or the document must be attached to it referencing the plan.
- p.) Preliminary percolation tests must be located on the Definitive and the results submitted along with the Definitive. Each proposed building lot must pass percolation tests.
- q.) The computed area of wetlands of each area.
- r.) A circle drawn at same scale as plan, placed between the sidelines of each lot to show the lot meets the requirements of "Width of Lot" as defined in Berkley bylaws. See page 36.
- s.) The existing and proposed topography at one (1) foot contour intervals within the proposed streets and utility easements unless waived by the Planning Board due to steep slopes.
- t.) At least one permanent site benchmark [i.e. concrete steps, drill holes in bounds or rocks] in an accessible location shall be set. Nails in utility poles or trees are not acceptable.
- u.) A typical cross section of street and utility structures proposed including manholes, catch basins, headwalls, etc. The diagrams are to be drawn to a scale acceptable to the Planning Board.
- v. Soil erosion and sedimentation plan. Said erosion and sedimentation plan shall include the following:
- (1) Soil erosion and sediment control provisions including an explanation of the technical basis used to select the practices chosen to minimize on-site erosion and prevent off-site sediment transport, including provisions to preserve topsoil and limit disturbance.
  - (2) Design details for both temporary and permanent erosion control structures.
  - (3) An attached vicinity map showing the location of the site in relationship to the surrounding area's watercourses, water bodies and other significant geographic features, and roads and other significant structures.
  - (4) A clear and definite delineation of any areas of vegetation or tree disturbance. Note all vegetation that is to be removed and all vegetation that is to be saved.
  - (5) A description of construction and stockpile and/or excess materials removed from the site expected to be stored on-site. The plan shall include a description of controls to reduce pollutants from these materials, including storage practices to minimize exposure of the materials to stormwater.
  - (6) A sequence of construction for the development site, including stripping and clearing; rough grading; construction of utilities, infrastructure, and buildings; and final grading and landscaping. Sequencing shall identify the expected date on which clearing will begin, the estimated duration of exposure of cleared areas, areas of clearing, and establishment of permanent vegetation.
- w. A stormwater management plan at the same scale as the subdivision plan, shall be prepared by a licensed civil engineer and submitted. The plan shall include, but not be limited to the items listed below and, at a minimum, be designed to provide sufficient information to evaluate the



environmental characteristics of the affected areas, the potential impacts of the proposed development on water resources, and the effectiveness and acceptability of measures proposed for managing stormwater runoff. The applicant shall certify on the drawings that all clearing, grading, drainage, construction, and development shall be conducted in strict accordance with the plan. The minimum information, in addition to the name, address and telephone number of the owner, licensed civil engineer and person responsible for implementation of the plan, submitted for support of a stormwater management plan shall be as follows:

- (1) Locus map.
- (2) Drainage area map showing drainage area and stormwater flow paths.
- (3) Location of existing and proposed utilities.
- (4) Location of all existing and proposed stormwater utilities, including structures, pipes, swales and detention basins.
- (5) Topographic survey showing existing and proposed contours.
- (6) Soils investigation, including borings or test pits, for areas where construction of infiltration practices will occur.
- (7) Description of all watercourses, impoundments, and wetlands on or adjacent to the site or into which stormwater flows.
- (8) Delineation of one-hundred-year floodplains, if applicable.
- (9) Groundwater levels at the time of probable high groundwater elevation (November to April) in areas to be used for stormwater retention, detention, or infiltration.
- (10) Existing and proposed locations, cross sections, and profiles of all brooks, streams, drainage swales and the method of stabilization.
- (11) Location of existing and proposed easements.
- (12) Proposed improvements including location of buildings or other structures, impervious surfaces and storm drainage facilities, if applicable.
- (13) Structural details for all components of the proposed drainage systems and stormwater management facilities.
- (14) Timing schedules and sequences of development including clearing, stripping, rough grading, construction, final grading, and vegetative stabilization.
- (15) Operation and maintenance schedule.
- (16) Notes on drawings specifying materials to be used, construction specifications, and details.
- (17) Location of areas to be cleared of more than 50% of the vegetation.

x. Control of stormwater runoff shall meet the requirements of these rules and regulations and performance standards for both flood control and nonpoint source pollution reduction as defined in the Massachusetts Stormwater Management Policy, dated March 1997, as amended. All assumptions, methodologies and procedures used to design stormwater treatment practices and stormwater management practices shall accompany the design. All activities, project design, stormwater treatment practices and stormwater management practices should aim to minimize stormwater runoff, maximize infiltration and recharge where appropriate, and minimize pollutants in stormwater runoff.

y. An operation and maintenance plan (O&M Plan) is required at the time of application for all projects. The maintenance plan shall be designed to ensure compliance with the permit in all seasons and throughout the life of the system. The Planning Board shall make the final decision of what maintenance option is appropriate in a given situation. The Planning Board will consider natural features, proximity of site to water bodies and wetlands, extent of impervious surfaces, size of the site, the types of stormwater management structures, and potential need for ongoing

maintenance activities when making this decision. The O&M Plan shall identify and include all required documents, including, but not limited to, maintenance agreements and stormwater management easements. All documents shall be submitted to the Board's Attorney for review and must be in a form satisfactory to the Board's Attorney. The operation and maintenance plan shall remain on file with the Planning Board and shall be an ongoing requirement. The O&M Plan shall include:

- (1) The name(s) of the owner(s) for all components of the system.
  - (2) Maintenance agreement(s). The maintenance agreement shall include:
    - (i) The names, addresses, and phone numbers of the person(s) responsible for operation and maintenance.
    - (ii) The person(s) responsible for financing maintenance and emergency repairs.
    - (iii) A maintenance schedule for all drainage structures, including swales and ponds, and the estimated life span of the system.
    - (iv) A list of easements with the purpose and location of each.
    - (v) The signature(s) of the owner(s).
    - (vi) A provision requiring a documentation submittal to Department of Public Works confirming when maintenance has been satisfactorily completed.
  - (3) Stormwater management easement(s).
    - (i) Stormwater management easements shall be provided by the property owner(s) as necessary for:
      - (a) Access for facility inspections and maintenance.
      - (b) Preservation of stormwater runoff conveyance, infiltration, and detention areas and facilities, including flood routes for the one-hundred-year storm event.
      - (c) Direct maintenance access by heavy equipment to structures requiring regular cleanout.
    - (ii) Stormwater management easements are required for all areas used for off-site stormwater control, unless the Planning Board grants a waiver.
    - (iii) Easements shall be recorded with the County Registry of Deeds or Land Court prior to issuance of a certificate of completion by the Planning Board.
  - (4) Changes to operation and maintenance plans.
    - (i) The owner(s) of the stormwater management system must notify the Planning Board of changes in ownership or assignment of financial responsibility.
    - (ii) The maintenance schedule in the maintenance agreement may be amended to achieve the purposes of this bylaw by mutual agreement of the Planning Board and the responsible parties. Amendments must be in writing and signed by all responsible parties. Responsible parties shall include owner(s), persons with financial responsibility, and persons with operational responsibility.
- z.) Upon approval, a Definitive Plan shall also be submitted in electronic format.
- aa.) Waiver requests shall be submitted separately. For each waiver to be considered, the applicant shall include the reason(s) he/she believes it to be in the best interest of the Town of Berkley to grant such waiver. See Fee Schedule.

Upon approval, any waivers voted by the members of the Planning Board shall be listed on Page 1 of the approved plan.

### **3. Review by Board of Health as to Suitability of the Land**

At the time of filing of the Definitive Plan, the Applicant shall also file with the Board of Health a copy of the Definitive Plan, dark line on white background. The Board of Health shall within forty-five days after filing of the plan, report to the Planning Board in writing. Every lot (so located that it cannot be served by a connection to any municipal sewer system) shall be provided with an on site sewage disposal system in accordance with the standards of the State Sanitary Code and satisfactory to the Board of Health.

#### **4. Public Hearing**

Before approval of the Definitive Plan is given, the Planning Board shall hold a public hearing. Notice of such hearing shall be given by the Planning Board at least, fourteen days prior thereto by advertisement in an official publication of, or in a newspaper of general circulation in the Town of Berkley. A copy of said notice shall be mailed to the Applicant, Town Boards and to all owners of land abutting upon the subdivision as appearing in the most recent tax list.

#### **5. Performance Guarantee**

Before endorsement by the Planning Board of a Definitive Plan of a subdivision, the Applicant shall agree to complete the required improvements specified in Section V for any lots in a subdivision, such construction and installation to be secured by one, or in part by one and in part by the other, of the following methods which may from time to time be varied by the Applicant:

- a.) 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 will require that the applicant complete the project within two years of its approval date or by another specific date as set by the Planning Board.
- b.) 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 will require that the Applicant complete the project within two years of its approval date or by another specific date as set by the Planning Board.
- c.) 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 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 release of the covenant but not later than three years from the date of such deed.
- d.) 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 within the time set forth by the Applicant, any funds remaining shall be available for completion.

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

No performance guarantee shall automatically expire before construction is complete.

## **6. Reduction of Bonds or Surety**

The penal sum of any such bond, or the amount of any deposit held under clause (a), or any deposit held under clause (b), or any amount of funds retained pursuant to an agreement under clause (c), shall bear a direct and reasonable relationship to the expected cost including the effects of inflation, necessary to complete the subject work. Such 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.

## **7. Release of Performance Guarantee**

Upon completion of improvements required under Section V, 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 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 the 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 a 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 Planning Board determines that said construction or installation has not been completed, it shall specify in accordance with MGL, Chapter 41, Section 81-U, in a notice by registered mail to the Applicant and to the Town Clerk the details wherein said construction or installation fails to comply with its rules and regulations and upon failure to do so within forty-five days after the receipt by said Town 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 Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

Any surety held by the Town as a Performance Guarantee may be applied by the Planning Board for the benefit of the Town, as provided for in MGL, Chapter 41, Section 81-Y, upon failure of performance for which such surety was given, to the extent of the reasonable cost of the Town to complete the necessary improvements in accordance with the approved Definitive Plan and the applicable Subdivision Regulations.

If the amount of surety posted with the Town does not sufficiently cover the costs to the Town for the improvements, the Town may pursue any and all recourse to secure such funds from responsible parties.

## 8. Certificate of Approval

The action of the Planning Board in respect to such plan shall be by vote, and the decision filed with the Town Clerk and sent by delivery or registered mail to the Applicant. Final approval, if granted, shall be endorsed on all pages of the original drawing of the Definitive Plan by the signatures of a majority of the Planning Board (or by the signature of the person officially authorized by the Planning Board). The Town Clerk must also endorse said plan to certify that no appeal has been filed. After the Definitive Plan has been approved, endorsed and recorded in the Registry of Deeds, **the Applicant shall furnish the Planning Board with three black and white prints of all recorded pages, and a receipt of book and page of any recording done at the Registry in regards to this project.**

All pages of the endorsed Definitive Plan are to be recorded in the Registry of Deeds, N.D.

No site work shall begin until the Planning Board receives the recorded plan and the Applicant has had a pre-construction meeting with the Planning Board and/or its Agent.

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

## 9. Review by the Engineering Consultant

At the time of the filing of the Definitive Plan, the Applicant's Engineer/ Land Surveyor shall deliver to the Engineering Consultant the following information:

- a.) One set of Definitive Plans.
- b.) One set of Drainage Calculations using the "Rational Method" of drainage calculations for the 100-year storm.
- c.) A copy of the field level notes that include a complete level run loop used for topographic survey that includes the required permanent benchmark(s).
- d.) One set of calculation sheets that summarize coordinates of all lots and street bounds.
- e.) Soil logs with groundwater readings recorded during the period between December 1st and May 1st or other information acceptable to the Engineering Consultant. The soil logs and measurement of groundwater shall be taken at the site of each proposed drainage pond or dry well, and at regular intervals on all proposed streets as required by the Engineering Consultant.
- f.) Copy of soil erosion and sediment control plan
- g.) Copy of the stormwater management plan

h.) Information that demonstrates compliance with the Massachusetts Stormwater Management Policy.

## **10. Completion of Project**

Upon the completion of a project, before Town's acceptance of the subdivision and before the final 25% of the surety or the final release of the lots shall be released a completed As- Built must be filed and approved by the Planning Board.

## **D. MODIFICATION OF PLAN**

### **1. Fee Schedule for Modification of Plans**

Fees for Revised Applications. Where an Administrative Fee has been calculated by the number of lots or units proposed, and the application is revised after payment of said fee; the following rules shall apply:

- a.) If the number of proposed lots or units increases, 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 proposed lots or units decreases, a refund of that portion of the application fee predicated on those lots or units shall be granted only if, in the judgment of the Planning Board, no cost associated with the review of those lots or units has yet been incurred.

### **2. Modification of a Preliminary Plan**

A Modification filing fee (Refer to Fee Schedule) for each lot or parcel affected, and for each new lot or parcel to be created. In addition, a fee (Refer to Fee Schedule) shall be required for the modification of a drainage structure. The total fee required shall be the addition of all fees outlined above.

### **3. Modification of a Definitive Plan**

A Modification filing fee (Refer to Fee Schedule) for each lot or parcel affected and for each new lot or parcel created. In addition, a fee (Refer to Fee Schedule) shall be required for the consideration of a modification of a road and a fee (Refer to Fee Schedule) shall be required for the modification of a drainage structure. The total fee required shall be the addition of all fees outlined above.

### **4. Fee Waivers**

The Planning Board may waive or reduce any Administrative Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.

### **5. Refund**

Once the review process has commenced, the Planning Board shall not refund Administrative Fees, including the case of withdrawal of the application by the applicant, except as provided in Section 1-b, above.

## SECTION IV. DESIGN STANDARDS

### A. LOW IMPACT DEVELOPMENT PERFORMANCE STANDARDS

The proposed construction means and methods have been effective in preventing soils or other eroded matter from being deposited onto adjacent properties, rights-of ways, public storm drainage system, or wetland or watercourse. The design, testing, installation, and maintenance of soil erosion and sediment control operations and facilities shall adhere to the standards and specifications contained in the Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas, dated March 1997, as amended.

**The following performance shall be applicable to all LID plans:**

#### 1. Site Planning Process

The site planning process shall be documented and shall include the following steps:

- a.) identify and map critical environmental resources,
- b.) delineate potential building envelopes avoiding environmental resource areas and appropriate buffers,
- c.) develop methods to minimize impervious surfaces, and to protect and preserve open space.

#### 2. No Untreated Discharges

All stormwater runoff generated from land development and land use conversion activities shall not discharge untreated stormwater runoff directly to a wetland, local water body, municipal drainage system, or abutting property, without adequate treatment.

#### 3. Channel Protection

Protection of channels from bank and bed erosion and degradation shall be provided by attenuating the 24-hour extended detention storage of runoff of the post-development 1-year, 24-hour return frequency storm event.

#### 4. Overbank Flooding Protection

Downstream overbank flood and property protection shall be provided by attenuating the post-development peak discharge rate to the pre-development rate for the 10-year, 24-hour return frequency storm event as required by the MA DEP LID Management Policy.

#### 5. Extreme Flooding Protection

Extreme flooding and public safety protection shall be provided by attenuating the peak discharge rate from the 100-yr, 24-hour return frequency storm event to the pre-development rates.



## **6. Recharge**

- a) Annual groundwater recharge rates shall be maintained, by promoting infiltration and recharge through the use of structural and non-structural methods. At a minimum, annual recharge from the post development site shall equal the annual recharge from pre-development site conditions.
- b) The stormwater runoff volume to be recharged to groundwater should be determined using the methods prescribed in the latest version of the Massachusetts DEP Stormwater Management Manual or an equivalent qualifying local manual. The recharge requirements shall apply to all activities within the jurisdiction of this Bylaw except as noted, and unless specifically waived by the Planning board. The recharge criterion is not required for any portion of a site designated as a stormwater hotspot. In addition, the Planning Board may relax or eliminate the recharge requirement at its discretion, if the site is situated on unsuitable soils or is in a redevelopment area with documentation of prior contaminated soils.

## **7. Structural Practices for Water Quality**

All structural Stormwater Management facilities shall be selected and designed using the appropriate criteria from the most recent version of the Massachusetts DEP Stormwater Management Manual.

For other structural stormwater controls not included in the Massachusetts Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the Planning Board before being included in the design of a Stormwater Management system.

Structural best management practices (BMPs) must be designed to remove eighty percent (80%) of the average annual post development total suspended solids (TSS) and forty percent (40%) for total phosphorus [TP], and thirty (30%) for total nitrogen (TN). It is presumed that a BMP complies with this performance goal if it is:

- a) Sized to capture the prescribed water quality volume; b) Designed according to the specific performance criteria outlined in the Massachusetts Stormwater Management Manual.
- b) Constructed properly; and
- c) Maintained regularly.

## **8. Water Quality Volume**

The prescribed water quality volume required in the sizing of a structural stormwater practice shall be 0.50 inches x the total impervious area of the drainage area and 1.0 inches x the total impervious area of the drainage area in critical areas, as specified in the Massachusetts DEP Stormwater Policy.

## **9. Hydrologic Basis for Design of Structural Practices**

For facility sizing criteria, the basis for hydrologic and hydraulic evaluation of development sites areas follows:

- a) Impervious cover is measured from the site plan and includes any material or structure on or above the ground that prevents water from infiltrating through the underlying soil. Impervious

surface is defined to include, without limitation: paved parking lots, sidewalks, roof tops, driveways, patios, and paved, gravel and compacted dirt surfaced roads.

- b) Off-site areas shall be assessed based on their “pre-developed condition” for computing the water quality volume (i.e, treatment of only on-site areas is required). However, if an offsite area drains to a proposed BMP, flow from that area must be accounted for in the sizing of a specific practice.
- c) Off-site areas draining to a proposed facility should be modeled as “present condition” for peak-flow attenuation requirements.
- d) The length of sheet flow used in time of concentration calculations is limited to no more than 50 feet for predevelopment conditions and 50 feet for post development conditions.
- e) Detention time for the one-year storm is defined as the center of mass of the inflow hydrograph and the center of mass of the outflow hydrograph.
- f) The models TR-20 (or approved equivalent) will be used for determining peak discharge rates.
- g) The standard for characterizing pre-development land use for on-site areas shall be woods.
- h) For purposes of computing runoff, all pervious lands in the site shall be assumed prior to development to be in “good hydrologic condition” regardless of conditions existing at the time of computation.
- i) If an off-site area drains to a facility, off-site areas should be modeled, assuming an “ultimate buildout condition” upstream for assessment of 100-year flows for sizing of spillways.
- j) Flooding and channel erosion impacts to receiving streams due to land development projects shall be determined at each point of discharge from the development project and such determination shall include any runoff from the balance of the watershed which also contributes to that point of discharge.
- k) The specified design storms shall be defined as a 24-hour storm using the rainfall distribution recommended by the United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) or the Northeast Regional Climate Center “Atlas of Precipitation Extremes for the Northeastern United State and Southeastern Canada.”
- l) Proposed residential, commercial, or industrial subdivisions shall apply these Stormwater Management criteria to the land development as a whole. Individual lots in new subdivisions shall not be considered separate land development projects, but rather the entire subdivision shall be considered a single land development project. Hydrologic parameters shall reflect the ultimate land development and shall be used in all engineering calculations.

## **10. Sensitive Areas**

Stormwater discharges to critical areas with sensitive resources (i.e., shellfish beds, swimming beaches, aquifer recharge areas, water supply reservoirs) may be subject to additional criteria, or may need to utilize or restrict certain LID Management practices at the discretion of the Planning Board. The Planning Board may designate sensitive areas and specific criteria for these areas after conducting a public hearing in accordance with the provisions of MGL Chapter 40A, Section 11.

## **B. 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 of the subdivision and rural character of the Town.
- b.) The proposed streets shall conform, so far as practicable, to the Master or Study Plan as adopted in whole or in part by the Planning Board.
- c.) Provision satisfactory to the Planning Board shall be made for 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 strip shall be in the public interest.
- e.) Street jogs shall have centerline offsets not less than two hundred (200) feet.
- f.) The minimum centerline radii of curved streets shall be as follows: Minor (residential) street - one hundred and fifty (150) feet. Secondary and Non-residential streets - three hundred (300) feet. Major streets - eight hundred (800) feet.
- 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 seventy (70) degrees, and shall continue in a straight line for a minimum of fifty (50) feet.
- h.) Property lines at street intersections shall be rounded or cut back to provide for curb radius of not less than thirty (30) feet.
- i.) Street signs shall be provided with names of street or ways at intersections as approved by the Planning Board. An additional sign designating the street or way as a "Private Way" shall be installed above the street sign, and shall be removed if the street or way becomes a public way.  
  
The Private Way sign shall be red in color with lettering of the same size as the street sign. Missing or damaged signs shall be replaced by the applicant until such time as the street or way becomes a public way.
- j.) Guard rails must be included where slopes from the roadway exceed 1:1.
- k.) Grades at intersections of more than two percent (2%) for the first forty (40) feet and more than four percent (4%) for the next thirty (30) feet will not be approved.
- l.) All streets will be free of abrupt and frequent grade changes. All summits of curves shall be constructed in a manner which provides visibility as follows:

<u>MINIMUM FORWARD</u>	
<u>TYPE OF STREET</u>	<u>SITE DISTANCE</u>
Minor	150 feet
Secondary	200 feet
Major	300 feet

## 2. Width

- a.) See Appendix 'Street Design and Construction Standards' Town of Berkley, Mass. April 2011.
- b.) The Planning Board shall require a greater or lesser width when deemed necessary for present and future vehicular travel.
- c.) Cul-de-sacs will only be allowed as a turnaround area at the end of a single dead end street. The width of pavement will not exceed the paved width of the Street & Design Construction Standards for the appropriate street type.

## 3. Grade

- a.) See Appendix "Street Design and Construction Standards" Town of Berkley, Mass. April 2011.

## 4. Dead-end Streets (Cul-de-sac)

- 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. The five hundred (500) feet shall be measured from the beginning of the proposed roadway to the center of the radius of the 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 fifteen (115) feet with a maximum of one hundred twenty (120) feet.
- c.) The central portion of a cul-de-sac or loop may not contain house lots.
- d.) See Appendix "Street Design and Construction Standards" Town of Berkley, Mass. April 2011.

## 5. Curbing

- a.) See Appendix "Street Design and Construction Standards" Town of Berkley, Mass. April 2011.
- b.) As required by the Planning Board, curbs and gutters may be eliminated along certain roadways, when drainage is provided in swales which are designed to reduce the rate of runoff, restore and/or supply needed water to vegetation in the street right-of-way. (Swales requiring pipes under driveways are discouraged.)
- c.) Copy of driveway typical cross-section shall be included in the plan.

- d.) The berm shall be 12" in width, with a 6" rise.
- e) Granite Inlets are required at all catch basins. See Figure 4.

**C. EASEMENTS**

- 1. All detention, swale, drainage and utility areas shall be on a separate, numbered parcel, having frontage of a minimum of sixteen (16) feet on a public way or a way within a subdivision, and shall remain a non-buildable lot.
- 2. The detention area shall be located a minimum of thirty-five (35) feet from any lot line.

**D. STORMWATER MANAGEMENT**

The detention area and all easements on other lots or parcels, which are appurtenant to, said detention areas themselves, shall be held by a legal entity to be formed by the applicant-owner for the benefit of owners of lots within the subdivision. The documents describing the above legal entity shall be reviewed by the Planning Board Legal Consultant for approval as to form. The applicant-owner shall execute a 20 year maintenance bond in the amount of five thousand (\$5,000) dollars for each detention / drainage area.

**E. OPEN SPACES**

Before approval of a plan, the Planning Board may also in proper cases require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in regulation 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 without its approval for a period of three (3) years.

**F. PROTECTION OF NATURAL FEATURES**

Due regard shall be shown for all natural features, such as large trees, water courses, stone walls, scenic points, historical spots, and similar community assets, which, if preserved, will add activeness and value to the subdivision.

**G. PERMITS**

ALL PERMITS MUST BE APPLIED FOR

## **H. IMPACT STUDIES**

Any subdivision of more than 10 lots must be accompanied by the following impact studies: [1] traffic [2] schools [3] water (surface and subsurface - map of subsurface flow) [4] if area includes wetlands [5] an inventory of flora and fauna for areas not under cultivation or otherwise in use.

## **I. PHASE BUILDING**

Subdivisions may be built in phases only if such phases are included as part of plan and include segments which are self-contained. No temporary cul-de-sac is permitted. For release of lots, all work on a segment must be completed.

## **SECTION V. REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVISION**

### **A. INSPECTIONS: SUBMISSION OF FINAL PLANS:**

1. The Planning Board, or designated agent, shall make inspections as hereinafter required and either shall approve that portion of the work completed or shall notify the owner or person responsible for the implementation of the plan wherein the work fails to comply with the soil erosion and sediment control plan, or stormwater management plan as approved. Plans for grading, stripping, excavating, and filling work bearing the stamp of approval of the Planning Board shall be maintained at the site during the progress of the work. To obtain inspections, the applicant shall notify the Planning Board at least two (2) working days before each of the following:
  - (a) Installation of sediment and erosion control measures.
  - (b) Start of construction.
  - (c) Completion of site clearing.
  - (d) Completion of rough grading.
  - (e) Installation of stormwater controls.
  - (f) Close of the construction season.
  - (g) Completion of final landscaping.

All inspections shall be documented in written form and submitted to the Planning Board at the time interval specified in the approved permit.

2. The Planning Board, or designated agent, shall enter the property of the applicant as deemed necessary to make regular inspections to ensure the validity of the reports filed as noted above.
3. The applicant shall submit an "as-built" plan for the stormwater controls after the final construction is completed. The plan must show the final design and specifications of all stormwater management systems and must be prepared by a professional engineer.

### **B. STREET AND ROADWAY**

1. The entire area of each Street or way shall be cleared of all stumps, brush, roots, boulders, like material and all trees not intended for preservation.
2. All loam and other yielding material shall be removed from the roadway area of each street or way and replaced with suitable material.

3. All roadways shall be brought up to a finished grade as shown on the profiles of the Definitive Plan with at least the top level twelve (12) inches consisting of well-compacted binding gravel to a width of at least thirty-six (36) feet, to be located, insofar as practicable, centrally within the street right of way. Pavement information can be found in the table below and in the Appendix "Street Design and Construction Standards" Town of Berkley, MA - April 2011.

**Table of Pavement Width**

	<b>Minor Street (1 - 4) lots</b>	<b>Minor Street (5 - 9) lots</b>	<b>Secondary (Local) Street</b>	<b>Major Street</b>
<b>Right of Way</b>	<b>50'</b>	<b>50'</b>	<b>50'</b>	<b>52'</b>
<b>Street Width</b>	<b>18'</b>	<b>22'</b>	<b>24'</b>	<b>28'</b>

4. a.) Unless otherwise specified, all the work and the materials used in the work shall conform to the requirements of "The Commonwealth of Massachusetts, Department of Public Works, Standards Specifications for Highways, Bridges, and Waterways, current edition, or any amendments thereof, addition thereof, or supplements thereof."
- b.) Unless otherwise specified, construction standards shall conform to the most current revisions as published by the Massachusetts Department of Public Works.
5. A certification by the Planning Board Engineer as to the construction of streets and utilities shall be received by the Planning Board prior to issuance of release of lots upon covenant or guarantee or reduction of surety or bond.

### **C. UTILITIES**

1. Sewer pipes and related equipment, such as manholes and connecting Y's, shall be constructed in conformity with specifications of the Planning Board Engineer.
2. Adequate disposal of surface water shall be provided. Catch basins shall be built in conformity with specifications of the Consulting Engineer, on both sides of the roadway on continuous grades at intervals of not more than three hundred (300) feet, at low points and sags in the roadway and near the corners of the roadway at intersecting streets. Minimal pipe slope -0.6%; maximum velocity 12 RPS; minimum size pipe 12' reinforced concrete. Catch basins and manholes shall be a minimum of six (6) feet deep and four (4) feet wide (inside measurements) with a thirty (30) inch or greater sump below pipe invert and shall be constructed of concrete blocks or pre-cast concrete units. Manhole covers and grates shall be in conformance with Mass. DPW specifications designed and placed so as to cause no hazard to bicycles. When in the opinion of the Planning Board and confirmed by the reviewing independent Registered Professional Engineer that the existing street drainage and/or downstream drainage systems are inadequate, the applicant shall be responsible to upgrade said existing drainage system to accommodate the increase storm water flows from the proposed subdivision. No detention area shall be deeper than 3 feet. The Planning Board may require adequate security to insure the maintenance of drainage facilities for a reasonable period of time, not to exceed twenty (20) years.



3. Water pipes and related equipment, such as hydrants and main shut-off valves, shall be constructed to serve all lots on each street in the subdivision in conformity with specifications of the Town Water Commission.
4. Electric, telephone, gas, cable television and all other services except transformers and junction boxes shall be placed underground in all subdivisions. Service connections shall be provided to the property line of every lot. Except for service connections, utilities shall be placed underground within the right of way of a proposed or existing street.
5. Fire Cisterns
  - a.) See Appendix -Figure 6
  - b.) Fire Cisterns must be approved by the Berkley Fire Chief. A 10,000 gallon tank shall be required for each 1000' of roadway. Each roadway of less than 1,000' shall have a minimum of one tank.
  - c.) The Berkley Fire Chief, Planning Board, or its Agent shall approve the location of each cistern.
  - d.) The applicant shall be required to fill the cistern with water prior to inspection.

#### **D. SIDEWALKS**

1. See Appendix "Street Design and Construction Standards" Town of Berkley, Mass. April 2011.

#### **E. MONUMENTS**

1. Monuments shall be installed at all Street intersections, at all points of change in direction or curvature of streets and at other points where, in the opinion of the Planning Board, permanent monuments are necessary. Such monuments shall be precast concrete 5" x 5" x 36" in size and shall be set according to such specifications. No permanent monuments shall be installed until all construction which would destroy or disturb the monument is completed.
2. Permanent boundary markers shall be placed on all lot or parcel turning points.

#### **F. CLEANING UP**

1. No piles of debris or earth shall be left on the subdivision when, in the opinion of the Planning Board, they are unsightly.

#### **G. PROJECT CHANGES:**

The applicant, or his or her agent, shall notify the Planning Board in writing of any change or alteration of a land-disturbing activity authorized in either the soil erosion and sediment control plan or the stormwater management plan before any change or alteration occurs. If the Planning Board determines that the change or alteration is significant, based on the design requirements listed in this bylaw and accepted construction practices, the Planning Board may require that an

amended soil erosion and sediment control plan and/or stormwater management plan application be filed. If any change or deviation from these plans occurs during a project, the Planning Board may require the installation of interim measures before approving the change.

## SECTION VI. ADMINISTRATION

### A. VARIATIONS

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

### B. REFERENCE

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

### C. ONE DWELLING PER LOT

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

### D. ACCEPTANCE OF STREETS AND UTILITIES

The Applicant, upon completion of the required improvements for the subdivision, shall petition the Board of Selectmen with the certification of construction of the required improvements by the Highway Surveyor and the Planning Board's certification of release of performance guarantee for the Town's acceptance and maintenance of said new streets and utilities.

### E. CHANGE OF OWNERSHIP

The Applicant/Owner shall notify the Planning Board of a change of ownership within 10 days of the transfer of property. The former owner shall submit a written, notarized request to a.) allow the new owner to continue using any funds remaining in the consultant account, or b.) return the remaining amount. If option b is chosen, the new owner(s) shall immediately deposit an amount equal to the original deposit prior to the release of funds to the former owner.

### F. PRE-CONSTRUCTION MEETING

A pre-construction meeting shall be required prior to start of construction with the Planning Board Engineer. The Applicant will be advised of required inspections and the advance notification required for those inspections.

# ADDENDUM

## TREE & OTHER PLANTING DESIGN STANDARDS & IMPROVEMENTS

### A. GENERAL REQUIREMENTS

1. Except as otherwise required by the Planning Board or its agent, street trees and other plantings shall be required as provided herein. Environmentally friendly species are preferred whenever possible.

### B. STREET TREES

1. Every effort shall be made to preserve existing trees within the proposed right-of-way as well as within individual lots. The species of street trees to be preserved or planted shall be of Zone 6 hardiness (such as Sugar Maple, Norway Maple, Ash, Oak, etc.) Planted street trees are to be of licensed nursery stock with good root development and branching characteristics, and with a one (1)-year warranty. However, the applicant shall be liable for all planted trees as to their erectness and good health for two (2) years after planting. Security shall be withheld for said two years sufficient to cover the cost of replacement and planting. The species selected for planting shall be approved by the Planning Board or its agent.
2. The minimum size of street trees, whether preserved or planted, shall be two (2) inches in caliper, measured four (4) feet above ground level, height shall be ten (10) to twelve (12) feet after planting. Street trees shall be planted in holes of a depth and width of two (2) times the root ball diameter in good quality topsoil and securely staked.
3. All street trees are to be planted within the layout of the road. The applicant shall meet with the Planning Board or its agent to determine the tree-planting scheme. If the planting of trees on one side of the right-of-way is required, the distance apart shall not exceed fifty (50) feet. If the planting of trees is required on both sides of the right-of-way, the distance apart shall not exceed eighty (80) feet on each side of the right-of-way, and the trees shall be set diagonally from the trees on the opposite side of the right-of-way.

### C. OTHER PLANTINGS

1. All areas between paved street lines and individual lot lines that are not occupied by approved sidewalks shall be loamed, rolled, and seeded as required herein. All cleared areas within rights-of-way, and areas over all culverts in drainage easements, shall be loamed with not less than four (4) inches compacted depth of good quality loam, seeded with lawn grass seed, and rolled, or seeded with a suitable ground cover, as required by the Planning Board or its agent. Seeding shall be done at appropriate times of the year and in a manner to insure growth.
2. All cut and fill slopes subject to erosion shall be planted with a suitable well-rooted, low growing evergreen shrub (such as Laurel, Mugho Pine, Juniper, etc.), and seeded with a deep rooted perennial grass to prevent erosion. Plants and perennial grass shall be suited to the adjoining landscape and located to provide adequate cover. The Planning Board or its agent may require the planting of sod and the use of other erosion control measures where warranted.

3. Where cul-de-sac plantings are required, they shall be landscaped using one or more of the following options:
  - a.) Planting of perennial grass by either sod or seed on a six (6)-inch depth of loam; or,
  - b.) Planting of nursery-grown, well-rooted shrubs and ground cover; or,
  - c.) Retaining existing vegetation, if approved by the Planning Board or its agent.
4. Security for all plantings shall be required in a form and amount sufficient to cover the cost of replacement and planting. Said security shall be retained by the Town for a period of time sufficient to reasonably ensure the long term viability of said plantings, but in no case shall cash security be held for less than two (2) years from the date that said planting and its installation are inspected and approved by the Planning Board or its agent.

## **MINING ROADWAY CONDITION FOR LOT APPROVAL**

1. Lots may be built on any roadway in the Town of Berkley provided that the road meets the standards set by the Planning Board to assure the safety and welfare of the inhabitants of the area.
2. In order for building to take place on a roadway, the road must meet the following minimum specification:
  - a.) Paved road based with a fourteen (14) foot width and one (1) foot shoulder on each side.
  - b.) Gravel road passable in all seasons and all normal weather conditions with a sixteen (16) foot width.
  - c.) Road in a subdivision approved by the Planning Board.

## **BUILDING IN THE TOWN OF BERKLEY**

In order for a lot of land to be buildable for single family residence, the owner must have:

1. Two hundred (200) feet of frontage on a street which meets the criteria above. The frontage must be continuous and on a single street (not around a corner).
2. One and one half (1-1/2) acre minimum of land with thirty thousand (30,000) contiguous square feet not wetlands. The lot width is defined as the distance between the sidelines required to allow a circle to be placed between sidelines. The required circle shall be tangential to the frontage of a given lot and shall be entirely contained within the lot boundaries.

In a Business District: For 100' frontage lots the circle diameter shall be 90'. In a Residential District: For 200' frontage lots the circle diameter shall be 181'.

3. A copy of the approved plan of the lot must be signed by the Planning Board and recorded at the Bristol County Registry of Deeds, ND. in Taunton.
4. Lots must pass a percolation test supervised by the Board of Health.
5. A building permit must be obtained from the Building Inspector. Lots located in an approved subdivision must be released by the Planning Board prior to issuance of a Building Permit.



# TOWN OF BERKLEY

## PLANNING BOARD

1 No. Main Street  
Berkley, Massachusetts 02779

### FEE SCHEDULE

#### FORM A (Approval Not Required Under Subdivision Control Law)

\$ 100.00 Per Lot  
\$ 500.00 Review Fee (may be waived)

#### FORM B (Preliminary Subdivision Plan)

\$ 450.00 Filing Fee + \$ 100.00 PER LOT  
\$ 750.00 Review Fee + \$ 100.00 PER LOT

#### FORM C (Definitive Subdivision Plan) \*\*

\$1,000.00 Filing Fee + \$ 300.00 PER LOT  
\$ 750.00 Review Fee + \$100.00 PER LOT\*  
\$ 500.00 for Each Proposed Street\*  
\$ 3.00 per Linear Feet of Roadway Performance Inspection\*

**\*THE MINIMUM REVIEW FEE SHALL BE \$5,000**

\$ 125.00 fee per waiver requested from these Rules & Regulations

**\*\* In addition to the above fees, applicant is responsible for the cost of certified mail to all abutters as listed on the certified abutters list, and the cost (estimated at time of submission) associated with publishing the required newspaper notice. This fee is payable at the time of submission and will be calculated at the current certified mail rate multiplied by the # of abutters + surrounding town planning boards.**

**Detention areas shall be counted as lots/parcels when calculating fees.**



**TOWN OF BERKLEY**

**PLANNING BOARD**  
**1 No. Main St.**  
**Berkley, Massachusetts 02779**

**MODIFICATION FEE SCHEDULE**

Name of Subdivision: *(please print)* \_\_\_\_\_

* \$500.00 Filing Fee Per Plan	=	<b><u>\$ 500.00</u></b>
* \$300.00 Per New Lot Application Fee (Include drainage/detention areas)	_____ x \$300 =	\$ _____
* \$200.00 Per Lot Affected/Changed from approved Plan (Include drainage/detention areas)	_____ x \$200 =	\$ _____
* \$200.00 Per Drainage Structure	_____ x \$200 =	\$ _____
* \$100.00 Per Roadway	_____ x \$100 =	\$ _____
* \$3.00 Per Linear Foot of Roadway	_____ x \$3.00 =	\$ _____
* \$100.00 Per Lot Review Fee	_____ x \$100 =	\$ _____
* \$125.00 Per Waiver Requested	_____ x \$125 =	\$ _____
	<b>TOTAL</b>	<b>\$ _____</b>

\_\_\_\_\_  
 Applicant Print Name Applicant's Signature

\_\_\_\_\_  
 Applicant's Address and Phone #

\_\_\_\_\_  
**Owners Signature and address if not the**  
**Applicant or Applicant's Authorization if not the Owner**

\*\*\*\*\*  
**PLANNING BOARD USE ONLY**  
 \*\*\*\*\*

Date Modification Request Received \_\_\_\_\_ Clerk, Berkley Planning Board



SEE PART 2 – APPENDIX ONLY