

# **Subdivision**

## **Rules and Regulations**

**As adopted by the Planning Board pursuant to  
Chapter 41, § 81 Q of the Massachusetts General Laws**

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**\$35.00**

# **Berlin**

## **Massachusetts**

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## STATEMENT OF PURPOSE

“These subdivision regulations are adopted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the Town of Berlin 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 insuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of the Planning Board and of the Board of Appeals 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 of 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 or by-laws; for securing adequate provision for water, sewerage, drainage, underground utility suffices, fire, police, and other requirements where necessary in a subdivision; for securing the protection of the natural environment and securing the provision of specific amenities; and for coordinating the ways in the town in which it is located and with the ways in neighboring subdivisions.

All subdivision proposals must be designed to assure that:

- a. Such proposals minimize flood damage
- b. All public utilities and facilities are located and constructed to minimize or eliminate flood damage; and
- c. Adequate drainage is provided to reduce exposure to flood hazards.

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 eighty-one R of Chapter 41 of the General Laws) such portions of the rules and regulations as is deemed advisable.”

## SECTION I.

### AUTHORITY

Under the authority vested in the Planning Board of the Town of Berlin by Section 81-Q of Chapter 41 of the General Laws, said Board hereby adopts these amended rules and regulations governing the subdivision of land in the Town of Berlin. These regulations shall be effective after approved and certified by the Register of Deeds and Recorder of Land Court.

#### A. Planning Board Procedures

Regular meetings of the Planning Board are held on the dates and times as posted with the Town Clerk. Except for executive sessions as provided for in Section 23-A of Chapter 39 of the General Laws as amended, meetings of the Planning Board shall be open to the public to attend. Anyone desiring to meet with the Board may do so by appointment. To secure an appointment, all applicants shall notify the Town Clerk at least four (4) days prior to a regularly scheduled meeting. In such notice, the applicant shall state his or her name, address, and a brief outline of the nature of the business to be discussed with the Planning Board. No appointment with the Planning Board shall be required of applicants desiring to submit a plan in accordance with the provisions of Section II, B of these Rules and Regulations. Any person attending an advertised public hearing may address the Board at the pleasure of the chairman without prior notice and in so doing shall state his or her, name, address, and person represented, if any.

All meetings of the Board shall be conducted formally under the direction of the Chairman of the Board. In the absence of the chairman, the Advisor (member of the Planning Board) shall act as Chairman. In the absence of both the Chairman and Advisor, the Clerk shall act as Chairman. A majority of the members of the Board shall constitute a quorum but less than a majority may vote to adjourn, subject to the meeting being rescheduled as hereinafter provided, all other action of the Board shall require a majority vote of all members. In the event of there being less than a quorum present at any scheduled meeting, the Chairman shall reschedule a meeting as soon as practicable thereafter.

The records of the Planning Board shall be maintained in the manner set forth in Section 23-A of Chapter 39 of the General Laws as amended and may contain such matters as the Board at its discretion may deem appropriate.

The Planning Board may require any applicant to produce evidence of ownership, or authority of an agent, representative or assign.

## SECTION II.

### GENERAL

#### A. Definitions

1. APPLICANT – A Person (as hereinafter defined) who applies for the approval of a plan of a subdivision or a person who applies under Section II, B of these Rules and Regulations. “Applicant” shall include owner, or his or her agent, or representative, or their assigns.
2. BOARD – The Planning Board of the Town of Berlin.
3. GENERAL LAWS – (abbreviated G.L.) The General Laws of Massachusetts. In case of a rearrangement of the General Laws, any citation of particular section of the General Laws shall be applicable to the corresponding sections in the new codification.
4. LOT – An area of land in one (1) ownership with the definite boundaries ascertainable or to be ascertainable of record, and used, or set aside and available for use, as the site of one (1) or more buildings accessory thereto.
5. MUNICIPAL SERVICES – Sewers, water drains, water pipes, gas pipes, electric lines, telephone lines, fire alarm lines and their respective appurtenances.
6. OWNER – 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 appropriate Land Registration Office, Registry of Deeds, or Registry of Probate.
7. PRELIMINARY PLAN – A plan of a subdivision or a resubdivision of land prepared in accord with Section III to facilitate proper preparation of a definitive plan.

8. PLAN OR DEFINITIVE PLAN – The plan of a subdivision as submitted (with appropriate application) to the Board for approval, to be recorded in the Registry of Deeds when approved by the Board, and such plan when approved and recorded; all as distinguished from a preliminary plan.

9. ROADWAY – That portion of a way which is designed and prepared for vehicular travel.

10. STREET, MAJOR – A street which, in the opinion of the Board, is being used or will be used as a thoroughfare between different portions of the Town of Berlin, or which will otherwise carry a heavy volume of traffic (generally, over fifteen hundred (1,500) vehicles per day).

11. STREET, MINOR - 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.

12. STREET, SECONDARY – 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 four hundred (400) vehicles per day) from such minor streets to a major street or community facility, and normally including the principal entrance street of a large subdivision, or group of subdivisions, and any principal circulation street within such a subdivision.

13. SUBDIVISION – Subdivision shall mean the division of a tract of land into two (2) or more lots and shall include resubdivision, and when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two (2) or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law, if at the time when it is made, every lot within the tract so divided has frontage on 1) a public way, or a way which the Clerk of the Town certifies is maintained and used as a public way, or 2) a way shown on a plan theretofore approved in accordance with the Subdivision Control Law, or 3) a way in existence when the Subdivision Control Law became effective in the town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services thereon. Frontage shall be of at least two hundred (200') feet distance as is required by the Town of Berlin's zoning by-law, for erection of a building on such lot. Conveyances or other instruments adding to, taking 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 (2) or more buildings were standing when the subdivision control law went into effect in the town in which the land lies into separate lots on each of which one (1) of such buildings remains standing shall not constitute a subdivision. (Section 81-L of Chapter 41, G.L.)

14. PLANNING BOARD AGENT – A duly authorized engineering consultant retained by the Planning Board.

15. U.G.V.D. – National Geodetic Vertical Datum.

B. Plan Believed Not to Require Approval

1. Submission of Plan

Any person who wishes to have 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 and application form A (see Appendix) to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval.

Said persons shall file with the Board two prints of the plan and Form A in duplicate. Said person shall file, by delivery or registered mail, a notice with the Town Clerk describing the land and stating the name and address of the owner and the date of submission of the plan to the Board for such determination (Form A). If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefore. No submission will be complete unless accompanied by a fee calculated in accordance with the fee schedule in effect at the time of application.

The plan shall be prepared by a Registered Land Surveyor upon mylar or tracing cloth and shall be at a suitable scale, preferably one inch (1") equals forty feet (40'). The size of the plan shall not exceed twenty-four (24") inches by thirty-six (36") inches. The plan shall contain the following information:

Name of record owner, applicant and land surveyor, north arrow, scale and date of preparation;

The statement "Approval Under the Subdivision Control Law Not Required" and sufficient space for the date and endorsement by the Board;

Zoning classification and location of any zoning boundaries which may lie within the area shown on the plan'

The location of existing and proposed boundary lines, streets, easements and the residue of any land divided;

Necessary evidence to show that the plan does not require subdivision approval, such as frontage on an existing road, etc.

2. Endorsement of Plan Not Requiring Approval

If the Planning Board determines that the plan does not require approval, it shall forthwith without a public hearing 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 in writing of its action.

3. Determination that the Plan Requires Approval

If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it will so inform in writing the applicant, and return the plan.

The Planning Board will also notify the Town Clerk in writing of its action.

4. Failure of the Board to Act

If the Planning Board fails to act upon a plan submitted under this section or fails to notify the Clerk of the Town and the person submitting the plan of its action within twenty-one (21) days after its submission, it shall be deemed to have determined that approval under the Subdivision Control law is not required and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith, the Town Clerk shall issue a certificate to the same effect.



## SECTION III

### PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS

#### A. Preliminary Subdivision Plans

##### Pre-Submission Conference

The optional Pre-Submission Conference is an informal session between the subdivider and the Board which should precede the prescribed procedures for submission of the Preliminary and/or Definitive Plans. The primary purpose of the Conference is to promote constructive, informal dialogue concerning any prospective subdivision proposals; and the explanation and clarification of the subdivision regulatory procedures in a cooperative effort to expedite the entire subdivision control process.

##### 1. General

A preliminary Plan of a residential subdivision may be submitted by an applicant to the Planning Board and the Board of Health for approval, modification or disapproval. In the case of non-residential subdivisions, a Preliminary Plan must be submitted, and the same procedure as for residential subdivisions shall be followed. Within forty-five days after the submission of a Preliminary Plan each Board shall notify, by certified mail, the applicant and Town Clerk either that the plan has been approved or approved with modification suggested by the Board and agreed upon by the applicant, or that the plan has been disapproved. In the case of disapproval, the Board shall state in detail the reasons for disapproval.

##### 2. Filing Procedure

Any person submitting a Preliminary Plan shall give written notice to the Town Clerk, by delivery or registered mail, postage pre-paid, that he has submitted such a plan. If the notice is delivered the Town Clerk shall, if requested, give a written receipt to the person who delivered such notice.

The applicant shall file one Form B, a reproducible copy of the original drawing(s) and five (5) prints with the Planning Board and three (3) prints with the Board of Health. Both the Board of Health and the Planning Board shall comply with the requirements of Section 81-S of Chapter 41 of the General Laws as amended in notifying the applicant and the Town Clerk of their decisions.

No submission will be complete unless accompanied by a fee calculated in accordance with the fee schedule in effect at the time of application.

3. Contents

The Preliminary Plan shall be drawn at a scale of forty (40') feet to the inch on sheets that are twenty-four (24") inches by thirty-six (36") inches.

The Plan shall be designated as "Preliminary Plan" and to form a clear basis for discussion of the problems of the subdivision and for preparation of the Definitive Plan, the Plan should contain the following data:

- (a) Major features of the land such as existing walls, fences, buildings, large trees, wooded areas, wetlands, out-cropping, ditches, waterbodies, the subdivision name, boundaries, north point, date, scale, legend and title "Preliminary Plan".
- (b) The names of the record owner and the applicant and the name of the designer, engineer, or surveyor.
- (c) The names of all abutters, as determined from the most recent local tax list.
- (d) The existing and proposed lines of streets, ways, easements, and any public areas within the subdivision in a general manner.
- (e) The proposed system of drainage, including adjacent existing waterways, showing the approximate locations of all inlets, outlets, pipes and drains.
- (f) The approximate boundary lines of all existing and proposed lots within and abutting the tract, with approximate areas and dimensions.
- (g) The names, approximate location, area and dimensions of existing nearby streets, ways, easements and public areas.
- (h) The topography of the land in its present state and as proposed by contour lines drawn at a 5 foot contour interval or better, based on N.G.V. Datum, to indicate clearly the natural and proposed drainage areas.
- (i) Any zone or district boundary established by the Town of Berlin Zoning By-Law, which divides or bounds the area to be subdivided.
- (j) Existing dwellings, buildings and sanitary systems.
- (k) Existing outstanding features, swamps, ledge, outcrops, ponds, water courses, tree lines, existing easements, walls, fences, etc.
- (l) Location of bench mark based on N.G.V.D.

4. Planning Board Action on Preliminary Subdivision Plans

The Planning Board may invite the applicant to discuss proposed modifications or corrections of the Preliminary Plan and may then approve, disapprove or approve with modifications such Preliminary Plan within forty-five (45) days after submission. In case of disapproval, the Planning Board shall advise the applicant of the specific reasons for which the plan is disapproved, thus enabling the applicant to resubmit the plan, provided the plan is corrected to comply with the requirements of the Planning Board and with the Zoning By-Laws in effect at the time of the resubmission. If the Preliminary Plan is approved the rules and regulations of the Planning Board in effect at the time of submission of such Preliminary Plan shall govern the definitive subdivision plan evolved from such Preliminary Plan, provided such Definitive Plan is submitted within seven months of the submission of the Preliminary Plan. Further, approval of a Preliminary Plan does not constitute approval of a subdivision, but it shall be deemed an expression of approval to the layout submitted on the Preliminary Plan as a guide to the applicant's preparation of a Definitive Plan which must be submitted for approval of the Planning Board in accordance with these regulations.

Notice of Planning Board action must be given to the applicant and the Town Clerk within forty-five (45) days of the date of submission.

B. Definitive Plan

1. General

For residential Definitive Plans where no Preliminary Plan has been submitted and acted upon, the Planning Board has one hundred and thirty-five (135) days after submission to take final action. An extension of the one hundred and thirty-five (135) day period may be agreed upon at the written request of the applicant. Notice of such extension of time shall be filed by the Planning Board with the Town Clerk. In the case of non-residential definitive subdivision plans, and residential subdivision plans where a Preliminary Plan has been acted upon, or where at least forty-five (45) days have elapsed since submission, the Planning Board has ninety (90) days after the plan's submission to take final action. An extension to the ninety (90) day period may be agreed upon at the written request of the applicant. Notice of such extension of time shall be filed by the Planning Board with the Town Clerk.

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

(a) An original drawing of the Definitive Plan with eight (8) copies thereof.

(b) A properly executed application Form C (in duplicate) including the time within which the subdivider or applicant agrees to complete the ways and install the public utilities in the subdivision, and approval of all plans shall be upon the condition that all ways shown thereon and public utilities required by the Board shall be completed and installed within the time so specified. The Board may decline to approve any plan unless the applicant agrees to complete the ways shown thereon and install the public utilities aforesaid within two (2) years of the date of his application. If the ways in any subdivision are not completed and the utilities aforesaid are not installed with the time so agreed to by the applicant or so required by the Board, no such way shall there after be laid out, constructed, completed, or opened for public use unless and until a new application is filed with and approved by the Board. The Board may require special planning studies and/or professional services, i.e. architect, landscape architect, geologist, engineer, etc, in an effort to render an appropriate and proper decision concerning subdivision regulations at the developers expense.

(c) No submission will be deemed complete unless accompanied by a fee calculated in accordance with the fee schedule in effect at the time of application.

(d) A Definitive Submission shall not be deemed to have been submitted unless it has been delivered to the Planning Board and the Board of Health at a scheduled meeting of each or has been delivered to the Planning Board and the Board of Health, care of the Town Clerk. If delivery is by mail, the date of receipt shall be the date of submission of the plan. The applicant shall give written notice to the Town Clerk by hand delivery or by registered mail, postage prepaid, that such a plan has been submitted and shall otherwise comply with the relevant provisions of Section 81-T of Chapter 41 of the general Laws, as amended.

2. Contents

The Definitive Plan shall be prepared by a professional engineer or land surveyor registered in Massachusetts and shall be clearly and legibly drawn in black India ink upon tracing cloth or mylar three (3) mil single mat. The plan shall be submitted in two scales one (1") inch equals forty (40') feet and one (1") inch equals two hundred (200') feet or such other scale as the Planning Board may accept in order to be accommodated by filing system, to show details clearly and adequately. Sheet sizes shall be twenty four (24") inches by thirty six (36") inches. 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 scale bench mark and datum. All elevations to refer to N.G.V. Datum.

(b) Name and address of record owner, subdivider and engineer or surveyor.

(c) Names and addresses of all abutters as they appear in the most recent tax list.

(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).

(e) Location of all permanent monuments properly identified as to whether existing or proposed. The distance and bearing to the nearest town, county or state monument on an accepted way or within a reasonable distance. Monuments at all points of curvature and changes in direction of street sidelines, or where designated by the Planning Board agent.

(f) Location, names, and present width of streets, bounding, approaching or within reasonable proximity of the subdivision.

- (g) Suitable space to record the action of the Board and the signatures of the members of the Board.
- (h) All information required on the Preliminary Plan shall be shown on the Definitive Plan as may be required by the Board.
- (i) Sufficient data to readily determine the location, bearing, and length of every street and way line, lot and boundary line and to produce same on ground; all bearings to be referred to true meridian.
- (j) Indication of all easements, covenants, or restrictions applying to the land and their purposes, whether or not within the subdivision.
- (k) Existing profiles on the exterior lines and proposed profile on the center-line of proposed streets at a horizontal scale of one inch (1") equals forty feet (40') and vertical scale of one inch (1") equals four feet (4'), or such scales acceptable to the Planning Board. Elevations are to be referred to either mean sea level or zero equals mean low water as established by the Coast and Geodetic Survey. Gradient shall be shown by figures expressed in percent.
- (l) Existing and proposed topography at two feet (2') contour intervals, and in red line the highest high water mark using the limits of the one hundred (100) year floodplain. There shall also be indicated the contour line four feet (4') above said high water mark.
- (m) Proposed layout of storm drainage, water supply, hydrants, and sewage disposal systems, and dimensions of gutters, including data on borings and percolation test made, and method of carrying water to nearest watercourse or easement for drainage as needed, whether or not within the subdivision.
- (n) Location and species of proposed street trees and trees to be retained with trunks over three inches (3") in diameter, measured six inches (6") above the finished ground level, located within twenty feet (20') of the street right-of-way line of existing or proposed streets.
- (o) Location of proposed street lights and sidewalks.

## SECTION III

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

When a Definitive Plan of a subdivision is submitted to the Planning Board, as provided in Chapter 41, Section 81-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 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, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and reasons therefore in such report, and, where possible, shall make recommendations for the adjustment thereof, provided, however if a municipal sewerage system will service the proposed subdivision, then failure of the Board to make such a report within forty-five days after the plan is filed with their office shall be deemed approval by such Board or officer or such other period as may be established under Chapter 41, Section 81-U of the General Laws, as amended.

Such health board or officer shall send a copy of such report, if any, to the person who submitted said plan.

### 4. Review of Other Town Officials

The clerk of the Planning Board will transmit copies of the Definitive Plan to town officials other than the Board of Health as follows: One (1) copy each to the Selectmen, Town Counsel, (for review of easements and agreements), Conservation Commission, Chief of Police, Fire Chief, Building Inspector and Superintendent of Streets.

Before the Definitive Plan is approved, the Planning Board will obtain written statements from the above officials that the proposed improvements are laid out to their satisfaction in the following respects (or, if thirty-five (35) days have elapsed since transmittal of the Definitive Plan by the Clerk of the Planning Board to the officials without such written approval, approval will be assumed):

(a) The Selectmen and the Town Counsel as to the design of the water system, as to street names, form of easements, covenants and performance guarantees.

(b) The Superintendent of Streets as to the design of the street system, location of easements, monuments and street lights.

5. Public Hearing

Before taking any action under Section 81-T the Planning Board shall hold a hearing at which parties in interest shall have an opportunity to be heard, in person or by agent or attorney. Notice of the time and place of such hearing and of the subject matter, sufficient for identification, shall be published in a newspaper of general circulation in the city or town once in each of two (2) successive weeks, the first publication to be not less than fourteen (14) days before the day of the hearing, and by mailing a copy of such advertisement to the applicant and to all land owners of land abutting upon the land included in such plan as appearing on the most recent tax list or if there is no such newspaper in such city or town then by posting such notice in a conspicuous place in the city or town hall for a period of not less than fourteen (14) days before the day of such hearing. The Board may as a condition of granting a permit under Section 81-T, impose reasonable requirements designed to promote the health, convenience, safety and general welfare of the community and to benefit the city or town.

6. Performance Guarantee

Before approval of a Definitive Plan of a subdivision, the subdivider shall either (1) file a Performance Bond or deposit money or negotiable securities in an amount determined by the Board to be sufficient to cover, (a) the cost of all or any part of the improvements specified in Section V, (b) the maintenance of such improvements for two years, and (c) a ten (10) percent contingency factor, or (2) follow the procedure outlined in "b" below.

(a) Approval with Bonds or Surety

Such bond or security if filed or deposited shall be approved as to form and manner of execution by the Town Counsel and as to sureties by the Town Treasurer and shall be contingent upon the completion of such improvements within two years of the date of the bond.

If the Board shall decide at any time during the term of the Performance Bond that:

1. improvements have been installed in a satisfactory manner in sufficient amount to warrant reduction in the face amount of such bond, or
2. the character and extent of the subdivision requires additional improvements, previously waived, than the Board may modify its requirements for any or all such improvements and the face value of such Performance Bond shall thereupon be reduced or increased by an appropriate amount.



(b) Approval with a Covenant

Instead of filing a bond or depositing surety, the subdivider may request approval of the Definitive Plan on condition that a covenant running with the land has been duly executed and recorded and inscribed on the plan, or a separate document referred to, on the plan, in accordance with Section 81-U of Chapter 41 G.L. Such covenant shall provide in part that no lot may be built upon or sold until all of the improvements as required in these Regulation have been completed and approved as provided hereafter.

Upon completion of such required improvements the subdivider shall so notify the Planning Board and the Town Clerk, by delivery or registered mail, requesting release from such covenant, but will post maintenance bond. The Board shall act on such request within forty-five (45) days.

7. Reduction of Bond Surety

The penal sum of any such bond, or the amount of any deposit held under clause "6,a" above, may, from time to time, be reduced by the Planning Board and the obligations of the parties thereto released by said Board in whole or in part. If release is by reason of covenant, a new plan of the portion subject to the covenant may be required.

8. Release of Performance Guarantee

Upon the completion of improvements required under Section V.k 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 may send by registered mail to the Town Clerk, a written statement in duplicate 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 requirements contained under Section V, such statement to contain the address of the applicant, and the Town Clerk shall forthwith furnish a copy of said statement to the Planning Board, If the Planning Board determines that said construction or installation has been completed, it shall notify the Town Treasurer in writing that it releases the interest of the town in such bond or deposit, and that such bond or deposit shall be returned to the person or persons who furnished same, or in the case of covenant it shall issue a written release of the covenant suitable for recording. However, ten percent (10%) of the value of the bond shall be held by the town for one (1) year after completion of construction or until the streets are accepted by the town, whichever comes first. Prior to releasing the town's interest in a performance bond or deposit or covenant, the Planning Board shall receive from the applicant the following written statements of approval, or fifteen (15) days shall elapse after the request for said approval without action:

From the Superintendent of Streets as to construction of all ways and sidewalks, installation of monuments, street signs, lights, gutters, and curbs, required grading and drainage.

From the Board of Health as to the installation of sewage disposal facilities and water facilities.

If the Planning Board determines that said construction or installation has not been completed, it shall specify to the applicant, in writing, by registered mail, the details wherein said construction and installation fail to comply with requirements contained under Section V. Upon failure of the Planning Board to act on such application within forty-five (45) days after the receipt of the application by the Town Clerk, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such covenant shall become void.

In the event that said forty-five (45) day period expires without such specification, or without the release and return of the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

9. Release of Lots if Lender Guarantees Construction

Following 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, the Planning Board may, at its option, release lots from the operation of the covenant given pursuant to clause (2) above, without receipt of a bond or deposit of money upon delivery to the Planning Board of an agreement with the Planning Board, which agreement shall be executed by the applicant and the lender and shall provide for the retention by the lender of sufficient funds 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.

10. Failure of Performance

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.

11. 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 action and shall rescind such disapproval when the plan has been amended to conform to the rules, regulations and recommendations of the Planning Board, **approval, if granted, shall be endorsed on the original drawing of the Definitive Plan**, which is submitted with four (4) copies, by the signatures of a majority of the Planning Board (or by the signature of the person officially authorized by the planning Board) **but not until the statutory twenty (20) day appeal period has elapsed** following the filing of the certificate of the action of the Planning Board with the Town Clerk and said Clerk has notified the Planning Board that no appeal has been filed. (After the Definitive Plan has been approved and endorsed, the Planning Board shall return the original to the applicant.

## SECTION IV.

### DESIGN STANDARDS

#### A. General

##### 1. Basic Requirements

The subdivider shall observe all design standards and, as a general guideline, shall explore all methods and means to maintain as much of the natural topography, drainage and vegetation as possible so that disruption of these natural features and characteristics is kept to an absolute minimum. The Planning Board may require in instances related to the preceding, that the subdivider use the services of a registered Landscape Architect or registered Professional Engineer. These standards shall be considered as minimum and shall be waived or modified only in instances where such waiver or modification will result in improved subdivision design, the preservation and enhancement of natural features or an ultimate saving in street maintenance cost and other similar costs usually associated with streets once duly accepted by the Town.

##### 2. Minimum Lot

No lot area or width, in a subdivision shall be less than the minimum required by the Zoning By-Law for the District in which it is located.

##### 3. One Dwelling Per Lot

Not more than one building designed or available for use as a dwelling shall be erected or placed or converted to such use on any lot in a subdivision, or elsewhere in the town, without the consent of the Planning Board, who may attach appropriate conditions.

#### B. Streets

##### 1. Location

a. All streets in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel and an attractive street layout in order to obtain the maximum safety and amenity for future residents of the subdivision.

b. The proposed streets shall conform, so far as practicable, to any existing plans of the Planning Board, to the Master or Study Plan or parts thereof adopted.

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 too streets or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips shall be in public interest.

2. Alignment

a. Street jogs shall have centerline offsets of no less than one hundred and fifty feet (150').

b. The minimum centerline radii of curved streets shall be as follows:

Minor Streets - One hundred and fifty feet (150')

Secondary Streets - Two hundred and fifty feet (250')

Major Streets - Three hundred and fifty feet (350')

c. A tangent at least one hundred and fifty feet (150') in length shall separate all reverse curves on major and secondary streets except where at least one (1) radius is five hundred feet (500') or more.

d. Streets shall be laid out so as to intersect as neatly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.

e. Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than thirty feet (30').

f. Streets shall be laid out so as to intersect at intervals which will permit block size to be in a range of six hundred feet (600') to twelve hundred feet (1200') in length, unless otherwise specified by the Planning Board, In lieu of actual construction of a cross street, in special instances the Planning Board may approve an easement for a future street.

3. Width

- a. The minimum width of rights-of-way shall be sixty feet (60')
- b. When a minor street will provide the only access for lots fronting on a length in excess of five hundred feet (500'), or where on a major street potential volume is such to warrant it, the Planning Board may require a greater right-of-way than that specified above and may require construction of a divided roadway.

4. Grade

- a. The centerline grade for any street shall not be less than five-tenths of one percent (.5%).
- b. The maximum centerline grade for streets shall be as follows:
  - Minor Streets - ten percent (10%)
  - Secondary Streets - eight percent (8%)
  - Major Streets - five percent (5%)
- c. Where changes in grade exceed one percent (1%), reasonable vertical curves, as required by the Superintendent of Streets, will be provided; and where a grade is five percent (5%) or greater within one hundred and fifty feet (150') of the intersection of street right-of-way lines, there shall be provided a leveling area of at least seventy-five feet (75'), with a maximum grade of three percent (3%).

5. Dead-end Streets

- a. Dead-end streets shall not be longer than five hundred feet (500') unless in the opinion of the Planning Board such greater length is necessitated by topography or other local conditions.
- b. Dead-end streets shall be provided at the closed end and with a turn-around having an outside roadway diameter of at least one hundred feet (100'), and a property line diameter of at least one hundred and twenty feet (120') unless otherwise specified by the Planning Board.

6. Curb Cuts

a. Driveways shall be at least nine feet (9') wide and have a curb return at the roadway of three feet (3') in radius.

b. Where rolled curbs or no curbs exist, the driveway flare should have a three foot (3') radius. Driveways cuts shall not be within fifty-five feet (55') of the intersection of the centerline of intersecting streets.

7. Easements

a. Easements for utilities carrying underground wires, where required, or for utilities across lots or centered on rear of side lot lines shall be provided where necessary and shall be at least twenty feet (20') wide.

b. Where a subdivision is traversed by a water-course, drainage way, channel, or stream, the Planning Board may require that there be provided a storm water easement or drainage right-of-way of adequate width and proper side slope.

8. 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 used of such land. The Planning Board any be 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.

9. Protection of Natural Features

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

b. Before the removal of trees, the Tree Warden or the appointed representative of the town shall be consulted at the developer's expense. Said representative will mark all trees that are **not to be removed.**

10. Clean Up During Construction

The work sites shall be kept reasonable clear of debris at all times. Prior to the issuance of the Certificate of Occupancy, the roadway base pavement, berms and sidewalk base shall have been installed, extending to and fronting the lot on which said is located. During additional house construction, existing paved surfaces shall be kept clear of dirt, and dust nuisances shall be kept abated. All drainage ditches, pipes, and structures shall be kept clear of debris and open for control of stormwater.

Upon completion of the subdivision, the developer shall remove all temporary structures, rubbish, and surplus materials from the area. All pavements shall be swept clean and catch basin sups shall have all accumulated debris removed therefrom.

11. Utilities – General

All utilities shall be placed underground at the time of initial construction.



## SECTION V. REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVIDER

### A. Basic Requirements

The subdivider shall install all of the improvements itemized herein unless waived in writing by the Board. All work done under this section shall be done under the direction of the Planning Board. No aforementioned bond or covenant in writing shall be released until full approval in writing of all work done under this section is received by the Planning Board.

### B Improvement requirements

#### 1. General

It is the policy of the Planning Board to encourage, in instances where it so determines, the practice of the use of natural topography, swale, and drainage to carry surface run-off and storm waters adequately from roadways in a subdivision. Where it is not possible or practical to use these natural characteristics to provide drainage, the Board encourages the creation of artificial swales, drainage channels and storm water holding basins as opposed to the extensive use of culverts, catch basins, paved drainage channels, curbs and berm. In all other instances where the use of the preceding is necessary, the following minimum specifications shall govern the installation of all roadways, utilities, and other improvements in all subdivisions as designated on the Definitive Plan and as otherwise determined by the Planning Board.

### C. Street and Roadway – grading and preparation for pavement

1. To insure high quality and uniformity of construction and unless otherwise specified, all the work and the materials used in the work to be done shall conform to the requirements of the “Commonwealth of Massachusetts, Department of Public Works, Standard Specification for Highways and Bridges, 1973 Edition”, as from time to time amended, hereinafter referred to as the “Standard Specifications”, and the special provisions include hereinafter.

#### a. Clearing and Grubbing (MDPW Standard Specs. Section 101)

The entire area of each street or way shall be cleared and grubbed to remove all trees not intended for preservation, stumps, brush, roots, rocks or boulders and like material which may exist upon the surface.

b. Excavation (Section 120)

The entire area of the roadway shall be excavated to remove all materials encountered within the right-of-way down to the true surface of the subgrade, or to suitable material in the areas where unsuitable material exists, in preparation for foundation of roadway, sidewalks, driveways and berms. Approved materials obtained from the excavation may be used in fills as required if, in the opinion of the Highway Superintendent, they are suitable.

c. Embankments (Section 150)

Embankments within or adjoining the right-of-way shall be evenly graded and pitched at a slope of not greater than two (2) horizontal to one (1) vertical in fill. All such slopes shall be grassed in accordance with the Specifications for the area between the roadway and sidewalk or roadway and boundary of the right-of-way. Where cuts are made in ledge, other slopes may be determined with the approval of the Highway Superintendent. Where terrain necessitates greater slopes, retaining walls, terracing, fencing as rip-rap may be used either alone or in combination to provide safety and freedom from Town maintenance, but must be done in accordance with plans filed with and approved by the Planning Board.

d. Grading (Section 170)

Install streets, the subgrade surface, fifteen inches (15") below the finished surface grade, shall be prepared true to the lines, grades and cross-sections given and properly rolled with not less than a ten (10) ton roller. All soft or spongy material below the subgrade surface shall be removed to a depth determined by the Highway Superintendent, and the space thus made shall be filled with Special Gravel Borrow (Section M 1.02.0), containing no stones over six inches (6") in their largest diameter.

e. Gravel Sub-Base (Section 401)

The gravel sub-base containing no stones having any dimensions greater than six inches (6") shall be spread on the surface of the sub-grade to a minimum depth of twelve inches (12") in conformity with the requirements of Section M. 1.01.0 Type A of the Standard Specifications for furnishing gravel borrow. Gravel shall be spread in 2 layers of six inches (6") each, and shall have cross sections as shown on schedule "A" in the Appendix.

Each layer shall be thoroughly watered, rolled with not less than a ten (10) ton roller, and compacted true to line and grade. Any depressions that appear during and after rolling shall be filled with additional gravel and re-rolled until the surface is true.

If the Highway Superintendent determines that sufficient time has elapsed to make it desirable, a tack coat meeting his specifications shall be applied prior to the application of the second layer of gravel. Final grading, rolling, and finishing including the shaping, trimming, rolling, and finishing of the surface of the sub-base prior to application of pavement for surfacing of the roadway and base courses for walks and berms shall be in accordance with this section and as directed by the Planning Board Agent or the Highway Superintendent.

## 2. Dimensional Requirements

Roadways shall be constructed for the full length of all streets within the subdivision and shall have the same curb radius required in Section IV,A,2 above.

The centerline of all roadways shall coincide with the centerline of the street right-of-way unless a deviation is approved by the Planning Board. The minimum width of roadways shall be as follows:

|                   |                         |
|-------------------|-------------------------|
| Minor Streets     | - twenty feet (20')     |
| Secondary Streets | - twenty six feet (26') |
| Major Streets     | - thirty-two feet (32') |

## 3. Wearing Surfaces

The wearing surfaces of roadways shall be Class I, Bituminous Concrete, Base Course, Type I-1 (Section 460). Pavement shall be plant mixed and laid hot to a finished depth of three inches (3") in tow courses of one and one half inches (1.5") each. Each course shall be compacted with no less than a ten (10) ton roller. The wearing surface shall have cross sections as shown on Schedule A in the Appendix.

4. Embankments outside the right-of-way shall be evenly graded and pitched at a slope of not greater than 2 horizontal to 1 vertical in fill. Where cuts are made in ledge, other slopes may be determined with the approval of the Superintendent of Streets. Where terrain necessitates greater slopes, retaining walls, terracing, fencing, or rip-rap may be used either alone or in combination to provide safety and freedom from maintenance, but must be done in accordance with plans filed with the Planning Board and approved by the Superintendent of Streets, the subdivider must furnish to the Town duly recorded access easements for maintenance of the slopes, terraces or retaining walls. All such slopes shall be grassed in accordance with the specifications above for the area between the roadway and sidewalk or roadway and boundary of the right-of-way.

D. Utilities

1. Sanitary sewers and related equipment, such as manholes and connecting Y's and other appurtenances, when installed, shall be constructed in conformity with specifications of the Superintendent of Streets.

2. Adequate disposal of surface water shall be provided and pipes, manholes and catch basins shall be constructed in conformity to the specification from the Mass. Dept. of Public Works' publication entitled, "Standard Specifications for Highways and Bridges," as amended, except that only ACCM or reinforced concrete pipe shall be used and except that no backfilling of pipes shall be done until the installation has been inspected by the Planning Board, or its authorized representative. Manholes and catch basins shall be built in accord with specifications contained in Section 201 of the MDPW Standard Specification (1973), and Schedule B as shown in the Appendix, and shall be built on both sides of the roadway on continuous grades at intervals of not more than four hundred feet (400') unless otherwise provided by the Planning Board, and at such other places as deemed necessary by the Superintendent of Streets and the Planning Board to secure the unimpeded flow of all natural watercourses, to assure adequate drainage of all low points and to provide proper runoff of stormwater, in no instance shall catch basins be located along a driveway cut. In addition, the Board of Health shall examine the Definitive Plan so that it can determine prior to issuance of a building permit that each lot is properly drained.

3. Water pipes, walls, and related equipment shall be constructed within the subdivision to serve each lot with an adequate water supply for domestic use and (fire protection) before a building on the lot is occupied. Construction shall be in conformity with the specifications of the Board of Health.

4. Where adjacent property is not subdivided or where all the property of the applicant is not being subdivided at the same time, provision shall be made for the extension of the utility system by continuing the mains the full length of streets and to the exterior limits of the subdivision, at such grade and size which will, in the opinion of the Planning Board, permit their proper extension.

#### E. Sidewalks

Where possible and practical and especially along collector and residential streets in a subdivision, sidewalks shall be provided outside of the street right-of-way within an easement conveyed to the Town of Berlin. Such sidewalk easement shall be continuous and shall follow the natural contour of the land even though the street may be located in a cut or fill; shall be eight (8') feet wide with a five (5') foot wide wearing surface as subsequently described; and shall connect with the street right-of-way line at various points as required by the Planning Board.

The five (5') foot wide wearing surface shall be constructed of bituminous concrete, gravel, wood chips, or stone dust as determined by the Planning Board.

Regardless of the wearing surface material required, the foundation shall be a minimum of ten (10") inches of approved gravel placed in two (2) five (5") inch layers and well compacted. When bituminous concrete is required, it shall be Class F laid and rolled to a one and one half (1½") inch thickness and topped with a finished course of Class 1 bituminous concrete (dense mix) rolled to a one (1") inch thickness.

When the wearing surface is required to be gravel, it shall be installed in a manner previously described concerning the preparation of the gravel foundation.

When the wearing surface is required to be wood chips, the gravel foundation shall be compacted to seven (7") inches and three (3") inches of wood chips shall be laid over the gravel to grade.

When the wearing surface is required to be stone dust, the gravel foundation shall be installed as with bituminous concrete and one (1") inch of stone dust laid over the compacted gravel.

Sidewalks shall be consistent with contours of land to maintain rural standards.

#### F. Curbs and Gutters

1. Unless otherwise specified by the Planning Board, curbs and gutters shall be provided;

a. at intersections along the roadway the distance of the arcs of the curves plus a straight section of each end of eight feet (8')

- b. along each edge of a roadway where the grade exceeds five percent (5%) and on the inner side of all curves with a radius of less than two hundred and fifty feet (250').

Installation to be in accord with Section 470, Class I Bituminous Concrete Berms of the MDPW Standard Specifications (1973), and Schedule B as shown in the Appendix.

2. Unless otherwise specified by the Planning Board, gutters shall be provided along each edge of the roadway where the grade exceeds three percent (3%) but is less than five percent (5%). Installation shall be in accord with the specifications of the Superintendent of Streets.

#### G. Grass Plots

1. A grass plot shall be provided on each side of each roadway between the pavement and sidewalk areas. The grass plot shall be covered with loam to a depth of four inches (4") in accord with Section 751, Loam Borrow of the DPW Standard Specifications, and shall be seeded.
2. The slope of the grass strip shall be as shown on Schedule A in the Appendix (1/4" : 1')
3. Street lights shall, and shade trees may be located in the grass plot, but shall not be nearer than twenty-five feet (25') from the intersection of two (2) streets, measured from the intersection of the tangents of the intersecting streets.

#### H. Trees

1. Street trees of a species approved by the Planning Board shall be planted on each side of each street in a subdivision, except where the Definitive Plan showed trees to be retained which are healthy and adequate. Such trees shall be located on the Grass Plot as provided in E above, approximately at seventy-five foot (75') intervals, and shall be at least twelve feet (12') in height.
2. The subdivider shall plant other trees as needed to provide at least one (1) area of shade to each lot.
  - (1) If the subdivider finds it necessary to remove any of the town's trees, the subdivider shall replace any and all at his own expense. The species of trees may include Norway Maple, Red Maple, Sugar Maple, northern Red Oak, or any other species that is acceptable to the Planning Board, These new plantings shall be guaranteed by the subdivider for a period of one year. The location for the new plantings shall be designated by the Tree Warden or the appointed representative.
  - (2) Along each street and on both sides, the subdivider shall plant trees so that with existing trees they shall be an average of one hundred (100') feet apart within twenty-feet of the roadway. The new plantings will be one and one half (1 1/2") to two (2") inches caliper with a minimum height of ten (10') feet. Each tree shall be fastened at the top with a loop of rubber or suitable fabric hosing. All trees shall be guaranteed by the subdivider for a period of

one (1) year or until the street is accepted by the town as a public way, whichever comes first. The location of these plantings should be specified in your regulations. They can be located on the grass plots (between curb and sidewalk) or off the back edge of the sidewalk.

Also, included in the Appendix section are very good details of guying and staking for new tree plantings.

I. Monuments

1. Monuments shall be installed at all street intersections, at all points of change in direction, grade, or curvature of streets, and at all other points where, in the opinion of the Planning Board, permanent monuments are necessary.

2. Monuments shall be a standard permanent Portland cement, concrete or granite marker approved by the Superintendent of Streets and installed at the time of the final grading with the top flush with the top final graded surface, according to the specifications of the Superintendent of Streets.

J. Street Signs

Street name signs shall be furnished and erected at all street intersections prior to the occupancy of any building on the street. All streets not accepted by the town shall be so indicated by a sign stating "Private Way". Signs shall be approved by the Planning Board to prevent duplication and to provide names in keeping with the character of the town.

K. Street Lights

1. Street lights shall be installed to conform to type and style in general use in the Town of Berlin unless otherwise specified by the Planning Board.

2. Street lights shall be located at such intervals, as required by the Selectmen, in the grass plot as provided in Section E, and shall be installed in accord with the procedure required by the Selectmen.

L. Supplemental Water Supply

M. Certificate

Just prior to the completion of the subdivision, the subdivider shall furnish a certificate from a Massachusetts Registered Civil Engineer that the plan and profile of the subdivision are according to the approved plan and that all bounds and monuments are set correctly and according to plan (Appendix D). Location of well pipes, drains etc. must be clearly indicated on plans.

Section VI.

ADMINISTRATION

A. Authority

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

The Board may assign as their agents appropriate town agencies or officials, and may from time to time hire professional assistance to review plans and inspect improvements at the cost of the subdivider.

The 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 road.

B. Variation

1. Waiver of Compliance

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 public interest and not inconsistent with the Subdivision Control Law. No variation from the approved Definitive Subdivision Plans will be allowed without the written consent of the Planning Board.

C. Building Permit

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

D. Inspections

1. Inspections shall be arranged for by the subdivider with the proper town official for the purpose prior to the construction of streets and the installation of utilities.

2. Inspection shall be requested in writing at least forty-eight (48) hours in advance of each inspection to the proper town official and a copy of each request shall be sent to the clerk of the Planning Board.

3. Inspection shall be for the following:

- a. Excavation and Subgrade Preparation  
The right-of-way shall be cleared as specified.  
INSPECTION #1 – Clearing of Right-of-Way.



- b. Subgrade of Roadway  
The subgrade shall be prepared as specified.  
INSPECTION #2 – Subgrade Preparation.
- c. Installation of Utilities  
Storm and surface drains shall be installed as specified and in conformity with the Definitive Plan.  
INSPECTION #2 – Drainage (Below Grade) Installation.  
INSPECTION #9 – Drainage (At Surface) Installation.
- d. Water Mains and Related Equipment  
Water mains and related equipment including fire hydrants shall be installed as specified and in conformity with the Definitive Plan.  
INSPECTION #4 – Water Installation.
- e. Gravel Base  
The gravel base shall be laid as specified.  
INSPECTION #6 – Gravel Base.
- f. Curb and Berm Installation (if applicable)  
All curbs and berms shall be installed as specified and as required by the Definitive Plan.  
INSPECTION #7 – Curb Installation.  
INSPECTION #10 – Berm Installation
- g. Pavement Construction  
All pavement shall be installed as specified and as required by the Definitive Plan.  
INSPECTION #8 – Binder Course (if applicable).  
INSPECTION #11 – Finish Course.
- h. Sidewalk Construction  
Sidewalks shall be installed as specified.  
INSPECTION #12 – Sidewalk Construction
- i. Trees and Planting  
INSPECTION #13 – Street Trees and Planting.
- j. Grass Strips  
Grass strips shall be installed as specified.  
INSPECTION #14 – Grass Strips.
- k. Street Signs and Monuments  
Street signs and monuments shall be installed as specified.  
INSPECTION #16 – Street Signs and Monuments
- l. Street Lights.  
Street lights shall be installed as required by the Planning Board.  
INSPECTION #15 – Street Lights
- m. Supplemental Water Supply

Supplemental Water Supply shall be installed as specified.  
INSPECTION #17 – Supplemental Water Supply

n. Final Clean up  
Final Clean up shall be accomplished.  
INSPECTION #18 – Final Clean Up.

o. Maintenance  
Streets and appurtenances shall be maintained as specified.  
INSPECTION #19– Maintenance.

4. The Planning Board may establish the order of the required inspection and may require satisfactory completion of one step before the subdivider proceeds to the next. It may require tests to be done by the subdivider as a condition for approval when in the opinion of the Planning Board it is advisable.

E. 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.

F. Amendments

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

G. Certificate of Occupancy

No land shall be occupied or used, and no building or structure hereinafter erected or structurally altered shall be occupied or used unless a Certificate of Occupancy has been issued by the Building Inspector. Such certificate shall state that the structure and use of structure and land comply in every respect with the provisions of the by-law in effect at the time of issuance or with a decision of the Board of Appeals.

A Certificate of Occupancy shall be conditional on the maintenance of full compliance with the provisions of this bylaw in effect at the time of issuance or with a decision of the Board of Appeals.

A Certificate of Occupancy shall be conditional on the maintenance of full compliance with the provisions of this bylaw in effect at the time of issuance or with restrictions imposed in a decision of the Board of Appeals, and shall become void if such compliance fails.

FORM A

**APPLICATION FOR ENDORSEMENT ON PLAN BELIEVED NOT TO REQUIRE APPROVAL**  
File one (1) completed form together with the original plan and two (2) prints thereof with the Planning Board and one form with the Town Clerk)

\_\_\_\_\_ Date

To the Planning Board of the Town of Berlin, Massachusetts

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:

1. The division of land shown on the accompanying plan is not a subdivision because every lot shown thereon has the amount of frontage and area required by the Town of Berlin zoning By-Law and is on a public/private way, namely,

\_\_\_\_\_ which qualifies a lot for frontage under the Subdivision Control Law.

If lots do not have required frontage and area, explain:

\_\_\_\_\_  
\_\_\_\_\_

Engineer's Name & Address \_\_\_\_\_  
\_\_\_\_\_

The owner's title to the land is derived under a deed recorded in Worcester District Registry of Deeds, Book \_\_\_\_\_, Page \_\_\_\_\_, and is presently shown in whole or part on Assessors' Tax Plate \_\_\_\_\_ Plot \_\_\_\_\_

Owner's Name \_\_\_\_\_

Approval under the Subdivision Control Law Not Required

Address \_\_\_\_\_

BERLIN PLANNING BOARD

Applicant's Signature \_\_\_\_\_

\_\_\_\_\_

Applicant's Name, if not owner \_\_\_\_\_

\_\_\_\_\_ Date

Applicant's Address \_\_\_\_\_

Planning Board Fee \_\_\_\_\_

Assessors' Map Fee \_\_\_\_\_

**FORM B  
APPLICATION FOR APPROVAL OF A PRELIMINARY PLAN**

(File one (1) completed copy with the Town Clerk and one (1) copy together with (5) copies of the plans to the Planning Board)

\_\_\_\_\_  
Date

To the Planning Board of the Town of Berlin, Massachusetts

The undersigned, being the applicant as defined under Chapter 41, Section 81-L for approval of a proposed subdivision entitled \_\_\_\_\_

by (engineer) \_\_\_\_\_

\_\_\_\_\_ dated \_\_\_\_\_

Access will be from the following streets \_\_\_\_\_

Total Land Area \_\_\_\_\_; No. Lots \_\_\_\_\_; Feet of Roadway \_\_\_\_\_

Hereby submits said plan as a PRELIMINARY SUBDIVISION PLAN in accordance with the Subdivision Rules and Regulations of the Berlin Planning Board and makes application to the Board for approval of said plan.

The undersigned's interest in said land is as follows \_\_\_\_\_

The owner's title to said land is be deed dated \_\_\_\_\_ and

recorded in the Worcester District Registry of Deeds Book \_\_\_\_\_, Page \_\_\_\_\_ and

is shown on Assessors' Tax Plate \_\_\_\_\_ Plot \_\_\_\_\_

Owner's Name \_\_\_\_\_

Address \_\_\_\_\_

Received by Town Clerk

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Applicant's Name, if not owner

\_\_\_\_\_  
Applicant's Address

\_\_\_\_\_

**FORM C**

**APPLICATION FOR APPROVAL OF DEFINITIVE PLAN**

(File two (2) completed forms with the Town Clerk in accordance with the requirements of Section 111-C)

\_\_\_\_\_ Date

**To the Planning Board of the Town of Berlin, Massachusetts**

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

\_\_\_\_\_ by (engineer) \_\_\_\_\_

\_\_\_\_\_ Dated \_\_\_\_\_

**Access will be from the following streets** \_\_\_\_\_

**Total Land Area** \_\_\_\_\_ **Acres: No. Lots** \_\_\_\_\_ ; **Feet from Roadway** \_\_\_\_\_

**Hereby submits said plan as a DEFINITIVE SUBDIVISION PLAN in accordance with the Subdivision Rules and Regulations of the Berlin Planning Board and makes application to the Board for approval of said Plan.**

The undersigned's interest in said land is as follows \_\_\_\_\_

The owner's title in said land is by deed dated \_\_\_\_\_

And recorded in the Worcester District Registry of Deeds Book \_\_\_\_\_, Page \_\_\_\_\_, and is shown on Assessors' Tax Plate \_\_\_\_\_, Plot \_\_\_\_\_.

Said plan (has / has not) evolved from a preliminary plan submitted to the Board on \_\_\_\_\_

\_\_\_\_\_ and was (approved with Modifications/disapproved on \_\_\_\_\_.

Date \_\_\_\_\_ Date \_\_\_\_\_

The undersigned hereby applies for the approval of said **DEFINITIVE PLAN** by the board, and in furtherance thereof hereby agrees to abide by the Board's Subdivision Rules and Regulations.

Owners Name \_\_\_\_\_

Received by Town Clerk

Address \_\_\_\_\_

Filing Fee of \$50.00  
(has/has not) been received

Applicant's Signature \_\_\_\_\_

Applicant's Address \_\_\_\_\_

