

TOWN OF HENNIKER, NEW HAMPSHIRE

CHAPTER 202

LAND SUBDIVISION REGULATIONS

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Article I

General Requirements

202-1 Authority and Title

Pursuant to the authority vested in the Henniker Planning Board by the voters of the Town of Henniker in accordance with the provisions of RSA 674:35, as amended, the Henniker Planning Board adopts the following regulations governing the subdivision and development of land in the Town of Henniker, New Hampshire, such regulations to be known as the "Land Subdivision Regulations of the Town of Henniker."

202-2 General requirements

A. Applicant Responsibility

It is the responsibility of each Applicant to read and follow these regulations. If a Applicant does not fully understand the regulations, it is his/her responsibility to seek the advice and counsel of qualified persons.

B. Exactions

As a condition to the final approval of an application, the Board may require an applicant to pay an exaction equal to the cost of off-site improvement needs determined by the Board to be necessary for the occupancy of any portion of the development. For purposes of this section, the term "off-site improvement" means those improvements that are necessitated by a development but that are outside the boundaries of the subdivision. Such off-site improvements shall be limited to any necessary road, drainage, and sewer and water upgrades pertinent to the development.

The amount of any such exaction shall be a proportional share of municipal improvement costs not previously assessed against other developments, which are necessitated by the development, and which are reasonably related to the benefits accruing to the development from the improvements financed by the exaction. As an alternative to paying an exaction, the developer may elect to construct the necessary improvements, subject to bonding and timing conditions reasonably required by the Board.

Any exaction imposed pursuant to this section shall be assessed at the time of approval of the subdivision. Whenever the calculation of an exaction for an off-site improvement has been predicated upon the town's bearing some portion of the cost of that improvement, the exaction shall be refunded to the applicant if the town does not appropriate its share of the cost within 6 years from the date of collection.

C. Expenses and Fees

All expenses incurred by the Town of Henniker in processing an application for Board action shall be paid by the applicant.

1. The application fee shall be paid at the time of filing the application with the designated agent of the Board. The fee will be set and from time to time amended by the Board of Selectmen.
2. At its option, the Board may assess the applicant for such costs as the Town incurs, such as independent studies and professional review of applications. An escrow account will be established by the applicant with the Town prior to any studies or reviews being undertaken.
3. Failure to pay these costs, as specified, will be valid grounds for the Board to refuse to accept the application as complete, or to disapprove the application.

D. For those proposals submitted to the Henniker Planning Board for review and subject to the Henniker Subdivision Regulations, sufficient evidence shall be submitted to determine that:

1. All such proposals are consistent with the need to minimize flood damage;
2. All public utilities and facilities, such as sewer, gas, electrical and water systems, are located and constructed to minimize flood damages; and
3. Adequate drainage is provided so as to reduce exposure to flood hazards.

E. All land proposed for subdivision must have the necessary road frontage along an existing Class V or better road, where access for the subdivision is to occur.

Article II Definitions

202-3 Definitions

As used in these regulations, the following terms shall have the meanings indicated:

ABUTTER – See RSA 672:3

APPLICANT -- Any individual, firm, association, syndicate, co-partnership or corporation, trust, or other legal entity commencing proceedings under these regulations to effect a subdivision of land or lot line adjustment hereunder for himself or herself or for another.

APPLICATION -- Minor Subdivision, Major Subdivision, and Lot Line Adjustment application, which is submitted to the Town for review by the Planning Board.

BOARD -- The Planning Board of the Town of Henniker, New Hampshire.

BUILDABLE LAND -- All land except that which is defined or described as unsuitable for subdivision or building purposes in 202-7B of these regulations.

CONCEPT PLAT OR PLAN -- A preliminary conceptual plan of a proposed subdivision which satisfies the provisions of Article III of these regulations.

CONDOMINIUM -- The form of ownership of real property, and any interests therein, in accordance with the provisions of RSA 356-B, in which individual owners own or lease separate units but together, or through an owners' association, own the common areas appurtenant to the units.

CUL-DE-SAC – A local street having only 1 outlet and having an appropriate terminal for the safe and convenient reversal of traffic movement.

DRAINAGE RIGHT-OF-WAY -- Land required for the installation of stormwater sewers or drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water therein to secure safety from flood damage and to preserve natural amenity.

ENGINEER -- The engineer/engineering firm retained by the Town of Henniker to act on the Town's behalf.

ESCROW ACCOUNT – An account established by the applicant with the Town to pay for independent studies and reviews associated with an application. Unused money in the escrow account will be returned to the applicant once the application has been approved or denied and all outstanding expenses have been paid for.

FLOOD ZONE -- Any area designated as a Flood Zone Area on the Town of Henniker Flood Insurance Rate Map, as indicated in Chapter 133, Henniker Zoning Ordinance.

HIGH INTENSITY SOIL SURVEY -- A study or survey of the soil types and characteristics of a plot or parcel of land which describes and defines the soil properties and soil types of the parcel in accordance with the Standards for a High Intensity Soil Map, which are adopted from time to time by the Society of Soil Scientists of Northern New England or comparable standards of other comparable professional organization.

LOCAL STREET -- A residential street having the primary function of providing direct access to adjoining properties, such street not being designed to provide for traffic service between and among areas of the community.

LOT -- A parcel or portion of lands separated from other parcels or portions of land by description as on a subdivision or survey map or by metes and bounds for the purpose of sale, lease or use, and, where appropriate, a condominium unit.

LOT LINE ADJUSTMENT -- A minor adjustment of the location of the boundary between two or more lots which results in no additional lots and which involves no construction of new streets or other public improvements.

MAJOR SUBDIVISION -- Any subdivision not classified as a minor subdivision.

MASTER PLAN -- The Master Plan for the Town of Henniker of 2002, as it may be amended from time to time.

MINOR SUBDIVISION -- Any subdivision which results in a total of three or fewer lots or condominium units, which does not require the construction of any new street or the extension of municipal facilities, and which is not in conflict with any duly accepted or approved street, plan or map.

NONRESIDENTIAL DEVELOPMENT -- Any development, use or change in use of land other than single- or two-family residential development, whether or not such development includes a subdivision or re-subdivision of the land.

PERFORMANCE GUARANTY -- Any security, including performance bonds, escrow agreements, letters of credit, and other similar collateral or surety agreements, which may be required of the applicant by the Planning Board before or as a condition of the Board approving an application.

PLAT or PLAN -- A map or plan of a subdivision or lot line adjustment.

SITE PLAN REVIEW -- The review by the Board of an applicant's plans for nonresidential development pursuant to the Chapter 203, Henniker Site Plan Review Regulations.

STREET -- Any street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway and other public roadway.

SUBDIVISION -- The division of the lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. The division of a parcel of land held in common and subsequently divided into separate lots among the several owners shall be deemed a subdivision under these regulations.

TURNAROUND, PERMANENT -- The permanent termination of a street that will not, or cannot, be extended. This classification shall be made by the Planning Board after initial review and consultation.

TURNAROUND, TEMPORARY -- The area constructed at the termination point of any street which, in the foreseeable future, will be extended, either further onto the developer's/owner's holdings or onto abutting properties. This classification shall be made by the Planning Board after initial review and consultation.

Article III

Conceptual Consultation

202-4 Purpose

To expedite subdivision review by identifying potential problems as early as possible. All Lot Line Adjustment and Minor Subdivision applicants are encouraged, but not required, to engage in a conceptual consultation as described below.

All Major Subdivision applicants are required to engage in a conceptual consultation as described below.¹

202-5 Parameters of consultation

- A. The prospective applicant will describe the basic concept of the proposed development, and the Planning Board will offer suggestions to resolve problems that might arise during formal review. This consultation will not bind either the applicant or the Board, and statements made by members of the Planning Board will not be the basis for disqualifying the members or invalidating any subsequent action on the application.
- B. The Board shall not give any indication of approval or disapproval of the proposal.
- C. The time limits for Board action under RSA 676:4,I(c) and 202-8E and 202-8H of these regulations shall not apply to preliminary conceptual consultation.
- D. The Board shall not accept any application by the potential applicant under this procedure.
- E. No notification of abutters or the public is required other than the consultation being listed on the Planning Board Agenda.

¹ Resolution needs to pass at 2005 Town Meeting authorizing this provision, per RSA 674:35,I
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202-6 Procedure

- A. It is recommended that the prospective applicant submit the following information in writing at least 1 week prior to the next regularly scheduled Planning Board meeting:
 - 1. The applicant shall prepare a concept plan of the site and surrounding properties in sufficient detail to allow the Planning Board to discuss the proposal, 14 copies of which need to be submitted.
 - 2. Correct names and mailing addresses of owner(s) of record (and the applicant, if different).
 - 3. A brief narrative description of the proposal.
 - 4. Any other information that the applicant feels will be helpful.
- B. At the meeting, the applicant may address the Board concerning the conceptual application, but must limit the presentation to the intent and the location of the proposal, without going beyond a description of the basic concept of the proposal.
- C. The Board may discuss the content of the Master Plan of the town and its relation to the potential applicant's proposal. The Board may also cite specific sections of these regulations or Chapter 133, Henniker Zoning Ordinance. The Board may make suggestions, which might be of assistance in resolving problems meeting requirements during final consideration.

Article IV Subdivisions and Lot Line Adjustments

202-7 Application Standards

This section sets forth certain standards that apply to major and minor subdivisions and lot line adjustments in the Town of Henniker.

A. Scattered or premature subdivisions

1. The Board may disapprove any proposed plat that the Board determines would result in the scattered or premature subdivision of land such as would endanger or injure health, safety or prosperity by reason of lack of water supply, drainage, transportation or other public services or facilities, or necessitate an excessive expenditure of public funds for the supply of such services or facilities, and in this connection, may take into consideration off-site factors affecting the provision of public services, including the adequacy of existing roads and streets.
2. The Board may disapprove any proposed plat that the Board determines would be contrary to the harmonious, coordinated development and growth of the town as provided in the Master Plan.

B. Unsuitable land:

1. Land of such character that it cannot be safely used for building purposes because of danger to health or peril from fire, flood, or other hazard shall not be platted for residential occupancy, nor for other uses which would tend to increase the danger to health, life or property or aggravate the flood hazard.
2. Every proposed lot requiring individual water supply or sewage disposal shall contain a minimum of two acres of contiguous buildable land.
 - (a) No land listed below shall be counted toward the required minimum of buildable land:
 - i. Land designated as a flood zone,
 - ii. Shown to be wetland, bog, marsh, swamp area, high water table, or any similar situation,
 - iii. Areas necessary for the protection of aquifers, which may serve as future sources of drinking water for the town,
 - iv. Slopes in excess of 20%,
 - v. Ledge which is exposed or lying within three feet of the soil surface
 - vi. Land which is subject to an easement or a right-of-way in favor of the town, county, state, federal government, or any third party.
 - (b) Any land covered by any soils listed by the New Hampshire Water Supply and Pollution Control Commission as Groups 5 and 6 shall likewise not be counted towards the minimum requirement for buildable land.

- (c) In the event that a subdivision contains any land, soils or natural features described in 202-7B(2)(a) or 202-7B(2)(b), the Board may require that the applicant submit as part of his/her application the report of an accredited soil scientist who has performed a high intensity soil survey of the subdivision. The report shall clearly identify, describe and delineate all unsuitable lands.

C. Lot Configuration

1. Side lot lines shall generally be at right angles to straight street lines, or radial to curved street lines.
2. Irregular lot configurations may be approved or disapproved in the interest of good planning.

- D. Protection of natural and historic features: Due regard shall be shown for all natural and historic features, such as trees, watercourses, scenic locations, rare plant and animal species (as defined by the NH Natural Heritage Inventory), and community assets, which if preserved, will add attractiveness and value to the subdivision or preserve the natural and historic resources of the town. Where appropriate, the Board may require the applicant to dedicate lands or grant easements to a qualified third party to protect such resources.

- E. Disturbing environment: Once an application has been submitted for Subdivision approval, the construction of roads within the land proposed to be subdivided, the clearing of land of natural vegetation, the placement of any artificial fill thereon, or doing any other act or acts which will alter the natural state of the land or environment, unless and until the plat relating thereto has been approved in accordance with the requirements of these regulations, shall not be permitted.

Nothing in this subsection shall be construed to prevent such preliminary ground surveys, marking by stakes, engineering studies, inspections and testing (including test boring and test pits) as may be necessary to evaluate the suitability of the land for subdivision and to assemble the information required to be shown on a plat; provided, however, that such preliminary surveys, staking, studies, inspection and testing shall be accomplished with the minimum disturbance or alteration of the natural state of the land environment.

- F. Compliance with regulations: All applications shall comply with Chapter 133, Henniker Zoning Ordinance, and all other ordinances and regulations of the Town of Henniker.

- G. Substandard streets: Where a lot within a proposed subdivision borders an existing street that does not meet the standards for right-of-way width set forth herein, the applicant shall set aside and show areas for widening or realigning such street. Any land set aside for this purpose shall be deeded to the town and shall not be counted for lot size, setbacks or frontage. Said areas shall be marked "Road Right-of-Way" on the plat.

- H. Conveyances to town: Before a plan of a subdivision may be recorded, all required new road construction or the extension of municipal services shall be transferred to the Town of Henniker by warranty deed. Such conveyances may include but not be limited to, the following categories: public parks, recreation areas, recreation easements, open space, road rights-of-way, future extension requirements for roads, strips of land reserved for access to abutters and/or future streets, all other rights-of-way or dedicated lands.
- I. Topsoil
Topsoil moved during the course of construction shall be redistributed to provide at least four inches of cover to all areas of the subdivision and shall be immediately stabilized by seeding and mulching or planting. All disturbed topsoil must be appropriately redistributed on the site. No topsoil shall be removed from the subdivision site.

202-8 Procedure

The applicant and Board shall follow the following procedures for all applications for subdivisions and lot line adjustments.

- A. The applicant shall file with the designated agent, within the posted time schedule:
 - 1. One copy of a completed application form.
 - 2. Three 22"x34" and fourteen 11"x17" size copies of the plan, as well as an 11"x17" size copy of the plan for each abutter.
 - 3. The filing fee based upon the fee schedule as may be revised by the Board of Selectmen from time to time.
 - 4. Copies of construction plans for required improvements
 - 5. All required material as outlined in 202-9 and 202-10, as applicable.
- B. Waivers: If the applicant would like to request a waiver for requirements listed in 202-9 or 202-10, this must be done in writing and submitted to the Board with the application. A waiver may be granted in cases where, in the opinion of the Planning Board, conformity would pose an unnecessary hardship to the applicant and granting the waiver would not be contrary to the spirit and intent of the Regulations.
- C. The Town shall notify all listed abutters, the applicant, and all licensed professionals working on behalf of the applicant of its intent to consider an application by certified mail, mailed not less than 10 days prior to the date for official submission to the Board of a completed application. Such notice shall contain a general description (supplied by the applicant) of the proposal and shall identify the applicant and the location of the proposal and an 11"x17" copy of the plan. The Town shall also post such notice in two public places in the town and in a newspaper of general circulation.

- D. Action on an application:
1. The official submission date of the application shall be the date of the first regular meeting at which the application is considered. At that meeting, the Board will consider whether the application includes the information required by 202-9 and 202-10 of these regulations.
 2. An application, which is deemed not to meet the conditions outlined in 202-9, will be rejected by the Board. If the Board votes to reject an application, it shall provide the applicant with written notice of its decision, which shall describe the reasons for the rejection.
 3. No public hearing shall be necessary prior to the Board's action to disapprove an application based upon the failure of the applicant to supply information required by the regulations, including abutters' identification, the failure to meet reasonable deadlines established by the Board, or the failure to pay costs of notice or other fees required by the Board.
 4. If an application is accepted by the Board, the Board shall begin formal consideration of the proposal within 30 days thereafter. The applicant may waive this and all other time periods and consent to such extensions as may be mutually agreeable.
- E. Requirement for public hearing
1. Once an application has been accepted as complete by the Board, no application may be denied or approved without a public hearing.
 2. Notice of any public hearing on an application shall be given in accordance with 202-8C. If notice of the hearing was included in any prior notice, it will not be repeated. If a hearing is adjourned, no written notice of the continuation date will be given if the date, time and place of the continuation was made known at the prior hearing.
 3. The public hearing shall be conducted in accordance with the Rules of Procedure adopted by the Board.
- F. Board consultation with specialists: Throughout the process of Board consideration of an application, the Board may consult with engineers, architects, soil scientists, attorneys, planners or others, at the expense of the applicant.
- G. Consent to on-site Board inspection:
1. By filing an application, the applicant consents to the inspection of the property by Board members and Board agents at reasonable times and in a reasonable manner.
 2. Prior to the Board's approval of a Major Subdivision application, at least three members of the Board shall schedule and conduct an on-site inspection of the property. All lot corners on existing streets, the center line of all new streets, and the perimeter of the subdivision shall be staked and flagged prior to such inspection.

3. The on-site visit and final action on the Major Subdivision application may be postponed until no later than May 1 following the acceptance of the application if, in the opinion of the Board, winter conditions prohibit making a proper inspection and evaluation of the site.
4. An on-site inspection can be conducted by the Board, if necessary, for Minor Subdivisions and Lot Line Adjustments.

H. Final action on an application:

1. Subject to the provisions of 202-8G(3), the Board shall approve or deny an application within 60 days of its submission and acceptance by the Board. The applicant may waive this time period and consent to such extensions as may be mutually agreeable.
2. If the Board denies an application, it shall provide the applicant with written notice of its decision, which shall describe the reasons for the denial.
3. If the Board approves an application, it shall notify the applicant of the approval and any conditions of such approval.
4. Upon approval, the Chair shall sign and date the plat as approved, or at a later date when all conditions of approval have been met. The Town shall file the final plat, and any documents effecting covenants, deed restrictions, etc., with the Merrimack County Register of Deeds.

I. Extensions

The Board may apply to the Board of Selectmen for an extension, not to exceed an additional 90 days, to act on the application. The applicant may also waive this time period and consent to such extensions as may be mutually agreeable.

J. Conditional Approval

1. The Board may grant conditional approval of an application, which shall become a final approval without further public hearing, upon certification to the Board by its designee or based upon evidence submitted by the applicant of satisfactory compliance with the conditions imposed. Final approval may occur in this manner only when the conditions are:
 - a. Minor plan changes whether or not imposed by the Board, as a result of a public hearing, compliance with which is administrative and which does not involve discretionary judgment; or
 - b. Conditions which are in themselves administrative and which involve no discretionary judgment on the part of the Board; or
 - c. Conditions with regard to the applicant's possession of permits and approvals granted by other boards or agencies.
2. All other conditions that do not satisfy 202-8J(1)(a-c) shall require a hearing after notice in accordance with 202-8C.

3. Conditional approval time limit.
 - a. Conditional approvals granted by the Board shall be valid for a period of 12 months from the date of the vote granting the conditional approval.
 - b. Failure on the part of the applicant to satisfy all of the conditions imposed by the Board as part of the conditional approval within the 12 month period shall negate the conditional approval and shall be cause for the Board to deny the application, at a hearing after proper notice in accordance with 202-8C.

K. Active or Substantial Development of Building/Substantial Completion (Adopted May 12, 2006)

1. For purposes of the subdivision regulations, "active & substantial development" shall be defined as:
 - a. Construction of and/or installation of basic infrastructure to support the development* in accordance with the approved plans; and
 - b. Construction and completion of drainage improvements to service the development** in accordance with the approved plans; and
 - c. All erosion control measures (as specified on the approved plans) must be in place and maintained on the site; and
 - d. Items a, b, and c shall be reviewed and approved by the Town Highway Department or designated agent.
 - e. Movement of earth, excavation, or logging of a site without completion of items a, b, c, & d, above, shall not be considered "active and substantial development."
2. Plans approved in phases shall be subject to this definition for the phase currently being developed.
3. Plans approved with phasing plans in accordance with Zoning Ordinance Article XXIX, Growth Management, shall have this definition applied to the first phase of the project.
4. For purposes of clarifying Section 202-8K.1.a, above, *Basic Infrastructure to support the development shall include all of the following as applicable to the development: at least 1 building foundation wall/footing; roadways, access ways, etc. to a minimum of gravel base (if any); and utilities placed overhead or in underground conduit ready for connection to proposed buildings/structures.
5. For purposes of clarifying Section 202-8K.1.b, above, **Drainage improvements to service the development shall include all of the following as applicable to the development: detention/retention basins, treatment swales, pipes, underdrains, catch basins, etc.

202-9 Plat Details Required for all Subdivisions and Lot Line Adjustments

The plat shall be prepared to a scale of not less than one inch equals 100 feet or at greater detail as directed by the Board to indicate clearly the existing and proposed features of the site. Said plat shall be prepared on standard sheets 22 by 34 inches measured from cutting edges. If one

sheet 22 by 34 inches is not of sufficient size to contain the entire area for the site and environs, the plat shall be divided into sections to be shown on separate sheets of equal size with reference on each sheet to the adjoining sheets.

The following information must be provided on the plat and/or submitted to the Board.

- A. Date, name and location of subdivision, name of record owner and Applicant, graphic scale and tie to the State Grid Coordinate System (standard title block).
- B. Data listing:
 - 1. Area of land subdivided; total area and buildable area
 - 2. Number of building lots
 - 3. Length, width, and class of abutting streets.
 - 4. Area of open space/conservation land
 - 5. List of abutters with mailing addresses and map and lot numbers
 - 6. Zoning District
 - 7. Owner of land
- C. Name, address, seal, and signature of every engineer and surveyor.
- D. Locus map at a scale of one inch equals 1,000 feet and suitable for use in updating the Town Tax Map showing all proposed lots and streets and all existing lots and streets within 1,000 feet of the proposed subdivision.
- E. Tract boundary lines, right-of-way lines of streets, street names, easements and other right-of-way, park areas or land to be reserved or dedicated to public use.
- F. All lot lines and other site lines, watercourses, wetlands, flood zone locations, and base flood elevations that may exist within 250 feet of the subdivision boundaries with dimensions and soil types, with accurate dimensions, bearing or reflection angles and radii, arcs and central angles of all curves.
- G. Graphic scale and tie to the State Grid Coordinate System, where an established point is within 500 feet. A tape and compass survey is acceptable for lot line adjustments and for lots of five acres or more in minor subdivisions. Subdivisions using a tape and compass survey are not required to provide a tie to the State Grid Coordinate System.
- H. At least one bench mark tied to USGS data which shall be established on each section or submission of a subdivision. The bench mark shall be tied to previously established bench marks on previously submitted plats. Said bench mark shall be plainly marked in the field and stationed on the final plat with its elevation.
- I. The tax block parcel number and owners of property abutting the tract to be divided. The list of owners shall be based on the Town Hall records, shall include the addresses of the owners and shall be prepared no more than 30 days prior to submittal.

- J. Existing ground elevation contours based on acceptable photogrammetric mapping methods or ground survey with a maximum of five-foot contour intervals. (Contours shall be accurate within 1/2 a contour interval). All slopes equal to or greater than 20%, as specified in 202-7B(2)(iv) shall be noted.
- K. The purpose of any easement or land reserved or dedicated to public use shall be designated, and the proposed use of sites other than residential shall be noted.
- L. Monuments that delineate survey points shall be set on the right-of-way lines, at the beginning and end of the project, beginning and end of curves, angle points and on tangents with a maximum distance between bounds of 1,000 feet. Similar monuments shall be installed on all front lot corners at the right-of-way line and shall be installed upon the completion of the road construction but prior to the issuance of any building permits. The front lot corners for lots fronting on existing streets shall also be marked with similar monuments, at the right-of-way line. All rear lot corners shall be marked with permanent objects, i.e., iron pipes, iron pins, monuments, etc.
- M. Existing soils delineation based on the "Soils Survey, Merrimack County, New Hampshire" and a legend which explains the map symbols. Soil types will typically range as follows:
1. Group 1: well to excessively well drained with rapid permeability.
 - (a) Colton (CoA, CoB, CoC, CtE).
 - (b) Gloucester (GcB, GcC, GcD, GrB, GrC, GrD, GrE, GsD, GsE).
 - (c) Hermon (HmB, HmC, HmD, HnB, HnC, HnD, HoD, HoE).
 - (d) Hinckley (HrE, HsA, HsB, HsC).
 - (e) Merrimack (MmA, MmB, MmC).
 - (f) Windsor (WdA, WdB, WdC, WdE).
 2. Group 2: well drained with moderate permeability.
 - (a) Agawam (AfA, AfB)
 3. Group 3: moderately well drained and well drained with hardpan.
 - (a) Acton (AcB, AdB, AdC).
 - (b) Belgrade (PcB).
 - (c) Duane(DuB).
 - (d) Ninigret (NnA).
 - (e) Paxton (PaB, PaC, PaD, PnB, PnC, PnD, PnE).
 - (f) Sudbury (SuA, SuB).
 - (g) Woodbridge (WoB, WoC, WvB, WvC).
 4. Group 4: bedrock relatively close to surface.
 - (a) Canaan (CaC, Cad).
 - (b) Shapleigh (SgB, SgC, ShC, ShD, SoD, SoE).
 5. Group 5: poorly drained.
 - (a) Au Gres (AgA, AgB, AuB).

(b) Ridgebury (RbA, RbB, RdA, RdB).

6. Group 6: floodplain or very poorly drained.

(a) Limerick (Lm).

(b) Ondawa (Of,Oh).

(c) Podunk(Po).

(d) Rumney (Ru).

(e) Scarboro (Sc).

(f) Suncook(Sy).

(g) Muck and Peat (Mp).

- N. The locations of proposed individual sewage disposal systems and wells, with protective radius indicated. If individual sewage disposal systems are to be used, the location of the percolation tests and the results of such tests need to be submitted.
- O. Plans and profiles of sewers, storm drains, culverts, catch basins, headwalls and other drainage structures, as well as sanitary sewers, water, gas and underground electric layouts showing feasible connections to existing or proposed utility systems.
- P. The location of proposed driveways and buildings.
- Q. In the event that a flood zone may exist within 500 feet of the subdivision boundaries, base flood elevations and utilities and drainage which will be located and designed to be consistent with the need to minimize flood damage and to provide adequate drainage for the area.
- R. Cross sections and profiles of proposed streets (cross sections at fifty-foot intervals plotted at one inch equals 10 feet horizontal and vertical); profiles plotted with the same horizontal scale as the plans and a horizontal to vertical scale ratio of five to one, respectively; all data based on a field survey.
- S. Where an applicant proposes a temporary turnaround, sufficient documentation must be submitted to demonstrate that the road terminus is suitably located to facilitate the future extension of the road into adjoining properties.
- T. Where an applicant proposes to extend a street which currently ends in a T-type turnaround, a plan for restoring the "ears" of the turnaround to a natural condition (to include topsoil and seeding) and continuing surface drainage must be submitted. The "ears" may be left where the abutting property owners specifically request such treatment and where surface drainage is appropriately accommodated.
- U. Certifications: The following listed certifications which shall be affixed to the final plan, together with the appropriate signatures and seals (when available) prior to the approval of the Planning Board.

It is hereby certified that the lands subdivided on this map are owned by title of record and that consent to the approval of said map is given.

Date

Corporate or individual name

I hereby certify that this map and survey has been made under my supervision.
The date of the survey was _____.

Date

licensed land surveyor

This map is hereby approved by the Henniker Planning Board at an official meeting held on _____ and shall be filed with the Merrimack County Registry of Deeds.

Date

Chair of Henniker Planning Board

- V. State approvals: Copies of all applications to the State of New Hampshire for approval of the design of on-site septic systems, for terrain alteration approval, for dredge and fill permits, for driveway cuts or for any other permit or approval required by the State of New Hampshire with regard to the subdivision must be filed with the application. Approval of any application will be conditioned upon filing with the Planning Board evidence of the issuance of all such state approvals. The applicant shall also submit certification of approval accompanied by a duplicate copy of all data submitted and any stipulations related to the approval.

- W. Driveway access:
1. The provisions of RSA 236:13, Driveways and Other Accesses to the Public Way, and RSA 236:14, Penalty, are adopted by reference into these regulations, and the provisions and conditions thereof are extended to include town classified roads.
 2. When an applicant requests to have 2 or more houses served by a common driveway, the following requirements shall apply:
 - a) Language shall indicate that the shared driveway is a private agreement and not under the jurisdiction of the Town, which will be recorded in the deeds of the lots that will be using the common driveway.
 - b) Where a common driveway serves 3 or more houses the roadway shall be built to town road specifications, except that the Planning Board may consider a minor reduction in width requirements not to exceed 25%.
- X. Review by other town officials: Before approval of a **Major Subdivision** the Board will require the Chief of the Police Department, the Chief of the Fire Department, the Highway Superintendent, and the Conservation Commission to review and comment on the submitted plan. The Board may also request that The Engineer, Water Commissioner, Sewer Commissioner, and other Town officials review the plans. The Board may require **Minor Subdivision** applications to be reviewed by Town officials.
- Y. Town sewer: If any portion of a subdivision containing five or more lots fronts on an existing street served or reasonably expected to be served by town sewer; or, a new street leading directly from a street served or reasonably expected to be served by town sewer; or, an existing street lies within 1,000 feet of a street served or reasonably expected to be served by town sewer, the plat shall show appropriate extensions to the existing sewer lines and appropriate sewer connections from all improvements to the new or existing sewer lines. On-site sewage disposal systems shall not be permitted in such a subdivision. Appropriate extensions of sewer lines and connections are required for subdivisions containing four or fewer lots where the extension of the sewer line is equal to or less than a ratio of 200 feet per lot.
- Z. Drainage plan: All applications involving new roads shall include a drainage and watershed map showing the entire area which is directly involved. The plan shall show areas and computed flowage volumes. All drainage plans for the subdivision shall be based on hydrological calculations from said watershed maps. These maps and accompanying calculations shall be prepared and stamped by a New Hampshire registered professional engineer.
- AA. Erosion plan: All applications involving new roads shall include a soils erosion and sediment control plan, conforming to the recommendations and specifications of the United States Department of Agriculture, Soil Conservation Service. Said plan shall address slopes, embankments, ditches, drainageways and the effect of the subdivision on water bodies and all disturbed areas. These plans shall be stamped by a New Hampshire registered professional engineer.

- BB. Parks and recreation: Pursuant to RSA 674:36 II(d) and (g), the Board may require the applicant to dedicate buildable land in a subdivision to the town for public playgrounds, park trails, open space or recreation uses. The Board has final approval of the land to be dedicated.
- CC. An applicant who is seeking approval of a condominium shall also file, at the time of an application, copies of:
 - 1. Condominium declaration.
 - 2. Condominium bylaws.
 - 3. Condominium site plan
 - 4. Condominium floor plan.
 - 5. Where applicable, evidence of filing of application for registration of the condominium with the New Hampshire Attorney General.
- DD. Other material as required by the Planning Board.

202-10 Special requirements for large-scale developments

The following requirements apply to certain large-scale developments, at the determination of the Planning Board, which may have a significant impact on the town, its services or facilities, as specifically provided herein.

- A. Fiscal impact analysis (FIA): Where the Planning Board finds that a commercial or industrial subdivision may have an adverse fiscal impact upon the town, the applicant must submit an analysis of the projected tax and fee income to the town and projected service costs of the town with the preliminary application.
- B. School impact analysis (SIA): Where a subdivision would generate a school age population equal to one classroom (currently an average of 25 students per classroom and an average of 0.7 students per unit according to 2000 United States Census data for the Town of Henniker), the applicant must submit an analysis of the impact of the subdivision on the school system with the application.
- C. Traffic impact assessment (TIA):
 - 1. Where a subdivision will result in the generation of an average of 200 weekday vehicle trip ends (according to Trip Generation, An Informational Report, Institute of Transportation Engineers), the applicant must submit a TIA to the Board with its preliminary application. The TIA shall include, but not be limited to, information with respect to:
 - a) Estimated vehicular trips per day.
 - b) An analysis of approaches.
 - c) An analysis of the circulation and channelization patterns.
 - d) A description and analysis of the location and type of existing and proposed traffic control devices.
 - e) Pedestrian traffic and systems.

- f) An analysis of signal warrants.
 - g) A description of the condition and capacity of the road network.
 - h) Other analysis of specific impacts as identified by the Planning Board.
- 2) A "trip end" is defined as a vehicle movement either entering or leaving the site.
- D. Environmental impact assessment (EIA): The applicant of each development containing 20 or more acres shall submit a report from the New Hampshire Natural Heritage Inventory (New Hampshire Department of Resources and Economic Development) which identifies rare plant and animal species and exemplary natural communities in or near the proposed subdivision with the preliminary application. If any of the species or communities are identified within or adjacent to the subdivision, an EIA addressing the impacts on the species and communities shall be submitted with the application.
- E. Community services impact assessment (CSIA): Where a subdivision contains 100 lots, 100 residential units, 8,500 gross square feet of office or commercial space, or 17 gross acres of industrial land, the applicant shall submit an assessment of the demands that the development will place on existing or proposed community services, including but not limited to police, fire, emergency, water, sewer, solid waste, roads, recreation and town offices with the application.
- F. Other consideration: The requirements contained in this section are based on thresholds at which the expected impacts will be measurable and at which point mitigation measures by the applicant may be required by the Board. Nothing contained in this section shall be construed to prevent the Planning Board from requiring other special investigations or from requiring the above-identified investigations at lower thresholds where, in the opinion of the Board, circumstances related to the development or the area warrant such special studies. An applicant may not evade the application of the provisions of this through phased or scattered development of a parcel. The Board may, in its discretion, consider the effects of both prior and potential developments of the land owned by the applicant or other prior or future owners of the subdivision and require compliance with the terms of this section.

Article V Streets

202-11 Standards

- A. All streets in the subdivision shall be designed to provide safe vehicular travel. Due consideration shall be also given to the attractiveness of the street layout in order to obtain an optimum livability and amenity of the subdivision.
- B. Provisions shall be made for the future extension of streets to adjoining property.
- C. Subdivisions that adjoin or include existing streets that do not conform to the ROW width requirements of these regulations shall dedicate the differential width along either or both sides of said existing streets, in accordance with 202-7F. If the subdivision is along one side only, 1/2 of the differential width shall be dedicated. Setbacks shall be measured from the new or future right-of-way line.
- D. All streets will have a fifty-foot right-of-way width, a paved travel surface of 20 feet and three-foot gravel shoulders on each side. Maximum grade shall be 8%, or up to 10% with Board approval, and the minimum grade shall be 0.5%.
- E. Alignment: Street jogs at intersections with center-line offsets of less than 125 feet shall be avoided. The minimum center-line radii of curved streets shall be 150 feet. 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 75°.
- F. Design of intersection roadway surfaces: Intersecting roadway pavements shall have a 30 foot radius of paved transitional area at all corners to accommodate turning movements. For all intersections in commercial and industrial areas, this paved area shall have a minimum radius of 50 feet.
- G. Dead-end streets: Dead-end streets shall be provided with an approved type turnaround, as determined by the Planning Board to be temporary or permanent. Design for the turnaround shall be as follows:
 - 1. Temporary turnaround:
 - a. The right-of-way width, per classification of the roadway, shall be maintained to the end of the improvements and further, to the property line, if so ordered by the Board. A T-type turnaround shall be constructed at the end of the road.
 - b. The “ears” or extensions that form the "T" shall be deeded to the Town of Henniker in the form of an easement.

- c. The easement shall stipulate that the town has sole rights to use and maintain the area until such time as the easement shall expire and those portions of the "T", which are no longer needed, expire. Those portions of the "T" no longer needed shall revert to owners of the abutting lots. For the purposes of frontage requirements only, that portion of a lot that would front on an extension of a street when the "T" is discontinued, or the width of the right-of-way for the "T", shall be counted and not the lines around the "T". This type of turnaround shall be used only when the possibility of extension is evident. This type of turnaround shall not be considered as a permanent turnaround.
- d. Where a Applicant proposes to extend a street which currently ends in a T-type turnaround or other temporary dead end, it is the Applicant's responsibility to restore the temporary turnaround to through street standards. This includes but is not limited to removing the ears or other maneuvering facilities where abutters desire and installing a suitable drainage system.

2. Permanent turnaround

- a. All streets that shall permanently terminate, as shown on plans, shall have a turnaround constructed to the following minimum specifications: The right-of-way shall be flared so as to form a circular or partially circular section or roadway for the ease of maintenance and travel. The radius of the center line of the pavement around the turnaround shall be a minimum of 100 feet. Shapes such as a "t=drop" or a "P" are preferred over the "lollypop" shape. Pavement widths shall be the same as for the road servicing the development. Pavement widths for road improvements within the turnaround area shall be the same as for the road servicing the development. The deed to the town for the roadway shall include all lands within the outermost dimensions of the turnaround area. All drainage, signs and other improvements within the area of the turnaround shall be as per guidelines contained within these regulations for required improvements.
- b. Where a Applicant proposes to extend a street which currently ends in a permanent-type turnaround, it is the Applicant's responsibility to restore or reconstruct the turnaround to provide a road which meets through standards. At the Board's discretion, this may include the removal of excess pavement and relocation of existing driveways, as well as the maintenance of adequate access for undeveloped parcels.

H. Blocks. Blocks generally shall not be less than 500 feet, nor shall the length generally exceed 1,200 feet. In blocks over 1,000 feet long, mid-block pedestrian crosswalks may be required in locations deemed necessary by the Planning Board.

I. Before any clearing has started on the right-of-way, the center line of the new road shall be staked and side-staked at fifty-foot intervals. Side stakes shall be set back off the right-of-way at right angles from the center line so as to be out of the construction area and with stationing and distances to the center line of the road.

- J. After clearing is done and before excavation is started, elevations shall be taken on the tops of side stakes. Cuts and fills shall be marked on side stakes.
- K. Trees: Trees in the right-of-way will be cut if the trunks are within the side slope area required for the road.
- L. Subgrades
1. All topsoil, stumps, roots, brush, boulders and like material will be removed from under the roadway and shoulders. All ledge and boulders will be removed to a depth of 18 inches from under the roadway and shoulders. All organic or clay-type soft or spongy materials will be excavated to such depth as necessary to stabilize the subgrade.
 2. The subgrade will be inspected by The Engineer and Highway Superintendent before the subbase is placed. Compaction will be obtained by use of approved rollers and equipment to at least 95% of the Standard Proctor Density (ASTM-698). Density shall be checked by an approved testing service, and the results of all tests are to be provided to the town. All costs incurred for performing such tests shall be the responsibility of the applicant. Documentation of testing shall be forwarded to the Highway Superintendent and Engineer for each layer.
- M. Embankments
1. Embankments shall be formed of suitable material placed in successive layers of not more than 12 inches in depth for the full width of the roadway cross section and shall be compacted uniformly and sufficiently to prevent settlement. Stumps, trees, rubbish and other unsuitable materials of substance shall not be placed in the fill. The fill shall be thoroughly compacted and tested before applying gravel.
 2. Compaction is to be obtained by use of approved rollers and equipment, to at least 95% of the Standard Proctor Density (ASTM-698), said density to be checked by an approved testing service, and the results of all tests are to be provided to the town for incorporation into the proper records. All costs incurred for the conduction of such tests shall be the responsibility of the applicant. Documentation of testing shall be forwarded to the Highway Superintendent and Engineer for each layer.
- N. Base course
1. A subbase of bank run gravel will be placed in two six-inch layers. The subbase material will be free of clay and silt and will have a maximum rock size of four inches. A base of inch-and-one-half crushed bank run gravel will be placed in a six-inch layer. All subbase and base layers will be compacted in accordance with an acceptable method. Bank run gravel shall meet the materials and construction requirements as outlined in NHDOT "Standard Specifications for Road and Bridge Construction," latest version.

2. The crushed gravel shall not be laid until the gravel has been inspected by the Highway Superintendent and The Engineer. The crushed gravel shall be laid in layers not to exceed six inches. Crushed gravel shall meet the materials and construction requirements as outlined in NHDOT “Standard Specifications for Road and Bridge Construction,” latest version.
 3. Compaction is to be obtained by use of approved rollers and equipment, to at least 95% of the Standard Proctor Density (ASTM-698), said density to be checked by an approved testing service, and the results of all tests are to be approved by the town for incorporation into the proper records. All costs incurred for the conduction of such tests shall be the responsibility of the applicant. Documentation of testing shall be forwarded to the Highway Superintendent and Engineer for each layer.
- O. Hot bituminous concrete pavement: three-inch minimum and conformance to the material and construction requirement of the NHDOT “Standards and Specifications for Road and Bridge Construction,” latest edition.
1. Base course = two-inch (after compaction) Type B.
 2. Wearing course = one inch (after compaction) Type E.
- P. Shoulders: Shoulders shall be constructed in the same manner as described above as directed by the Highway Superintendent and The Engineer.
- Q. Sidewalks. When required by the Planning Board, sidewalks shall be designed and constructed in accordance with the *AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities* and the approval of The Highway Superintendent and Engineer.
- R. Winter repairs: After a minimum of one winter season, all settlements will be regraded and all heaves noted will be excavated to remove the unsuitable materials and regraded. A pavement of two inches base of three-fourths-inch binder (State Type B) and one inch of wearing course (State Type E) will be machine placed and rolled. The wearing course will not be placed until all heavy construction equipment and large trucks are off the project and any damage repaired and utility cuts repaired. All repairs will be made with hot asphalt and the approval of The Highway Superintendent and Engineer.
- S. Drainage
1. Underdrains shall be installed where the character and composition of the soil in the roadbed and other areas of the subdivision render such installation necessary in the opinion of the Highway Superintendent and Engineer. These underdrains shall consist of plastic pipe that conforms to NHDOT standards and be a minimum six inches in diameter and laid in the bottom of a trench at such depth and width as may be necessary. The underdrain shall be a minimum 2 feet below the structural box, at a point 1 foot off the edge of the pavement to the top of the pipe. The trench shall be filled with clean bank-run gravel, or equivalent material approved by the Highway Superintendent and Engineer.

2. Storm drains, culverts and related installations, including catch basins and drop inlets, shall be installed within or without the subdivision as necessary to permit unimpeded flow of all natural watercourses, to ensure adequate drainage of all low points along streets and to intercept stormwater runoff along streets at intervals reasonably related to the extent and grade of the area drained. (Where required, catch basins may be on both sides of the roadway on continuous grade at intervals not to exceed 300 feet.)
3. Drainage improvements shall meet the specification of AASHTO HS20 in regard to material and strength loading requirements. Catch basins and drop inlets shall be equal to New Hampshire Standard Type B or as acceptable to the Highway Superintendent and Engineer. Storm sewer pipes and culverts shall be reinforced concrete, HDPE, or equivalent and shall have a minimum four-foot cover over all pipes crossing beneath roadways and two feet of cover in ditchlines. Headwalls, where required, shall be either reinforced concrete or mortar rubble masonry.
4. Erosion protection ditches. Class C stone shall be provided in ditches where soil or velocity conditions warrant protection from erosion as determined by the Highway Superintendent and Engineer.

T. Easements.

1. Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least 20 feet wide.
2. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, the Board may require that there be provided a stormwater easement or drainage right-of-way of adequate width to conform substantially to the lines of such watercourses, drainageway, channel or stream, and a ten foot buffer on either side and provide for construction and other necessary maintenance purposes.

U. Standards and Specifications

The following standards and specifications shall include but not be limited to the following documents for the design and construction of all improvements:

1. Zoning Ordinance – Town of Henniker, current edition
2. Manual on Drainage Design for Highways – State of New Hampshire, Department of Transportation, current edition
3. Manual on Uniform Traffic Control Devices (MUTCD) – U.S. Department of Transportation, Federal Highway Administration, current edition
4. Standard Specifications for Road and Bridge Construction – State of New Hampshire, Department of Transportation, Current Edition
5. Highway Design Manual – State of New Hampshire, Highway Design Division, Vol. 1 & 2, current edition
6. High Intensity Soils Maps for New Hampshire Standards and Origins – Society of Soil Scientists of Northern New England, Current Edition
7. A Policy on Geometric Design of Highways and Streets – AASHTO – current edition
8. Highway Capacity Manual – Transportation Research Board, current edition

9. Roadside Design Guide – AASHTO – Current Edition
10. Stormwater Management and Erosion and Sediment Control Handbook for Urban and Developing Areas in New Hampshire – Current Edition

202-12 Signs

- A. All signs to regulate traffic (i.e., stop signs, speed limits signs, curve and intersection signs, etc.) as required, will be installed by the applicant at his/her expense and conform to the latest version of the MUTCD
- B. Street Name Signs
 1. Signs will be built to town standards and installed at each intersection by the applicant at his/her expense.
 2. No street shall have a name which duplicates or which is substantially similar to the name of an existing street. The continuation of an existing street shall have the same name.
 3. Proposed street names shall be submitted to the Board of Selectmen, or their designee, for review and approval.

Article VI

Water and Wastewater Facilities

202-13 Common systems

Such systems proposed by an applicant shall be of sufficient capacity to serve the subdivision and shall be designed and constructed for incorporation into the future town or precinct systems. All such facilities shall meet the requirements of and be approved by, the New Hampshire Department of Environmental Services, Division of Water Supply and Pollution Control, local and county health and public works agencies, and/or other public body having jurisdiction, and shall be accepted by the Engineer and Town Departments.

- A. Water and Wastewater plans to include:
 - 1. Two-foot contour intervals.
 - 2. Well site with two-hundred-foot protective radius. No subsurface disposal system shall be permitted in this area.
 - 3. All lots numbered.
 - 4. Distribution system with waterline sizes, pipe material, buried depth of piping, all valving and hydrant locations.
 - 5. Indicate type of establishment; manufactured housing park, apartment buildings, etc.

- B. Material to be provided
 - 1. Complete quality analysis for the well water as conducted by the State Water Testing Laboratory within the past six months.
 - 2. Continuous forty-eight-hour yield test log of the well showing water level and rate of pumping at one-hour intervals.
 - 3. Pump house - Schematic drawing of pump house piping and detailed elevation of pump house facilities.
 - 4. Detailed elevations of well design.
 - 5. Storage facilities to be provided.
 - 6. Characteristic curve and calculations for all pumps-well and booster.
 - 7. Show that new and replacement water and sewer systems, including on-site and common systems be located, designed and constructed to minimize infiltration and avoid impairment when locations fall within 500 feet of a flood zone.
 - 8. Other material as requested by the governing authority.

202-14 Individual service

Individual wells and subsurface disposal facilities shall, in all respects, comply with all applicable local, county and/or state requirements, including those of the State Water Supply and Pollution Commission. In areas not currently served by common sewer systems, it shall be the responsibility of the applicant to provide adequate information to the installation and operation of an individual sewage disposal system (septic tank and drain field). The applicant shall be

required to provide the necessary equipment and labor for the making of these tests, required by local, county and/or state authorities having jurisdiction.

Article VII Inspections and Performance Guaranty

202-15. Performance and inspection of work

- A. All work necessary for the construction of required improvements and the repair of damage to existing public improvements shall conform to the requirements of these Regulations.
- B. All work shall be performed in a good and workmanlike manner, and shall be free from faults and defects. All materials incorporated in such construction shall conform to the requirements of these Regulations and shall be of good quality. Any work, materials, or construction not conforming to the standards outlined in Article V of this Ordinance or other Town Regulations may be considered defective and rejected by the Engineer and Town Department Heads. All work and materials rejected by the Engineer and Town Department Heads as defective shall be removed and corrected by the Applicant.
- C. All work shall be completed within the time limits, if any, specified by the Board and/or Board of Selectmen, but in the absence of such specified limits and in all events no later than three years from the date of the approval of the final plat, unless the time limit is extended by mutual agreement of the Board of Selectmen and the applicant.
- D. The Engineer will represent the Town during the construction of the required roadway and utility improvements.
 - 1. The Applicant shall provide the Town with funds to be placed in an escrow account, which will be used to pay for the services of the Engineer during the inspection of work. Any unused funds will be returned to the Applicant at the completion of the project and the sign-off of the Engineer.
 - 2. The Engineer shall at all times have access to the site when the work is in preparation and progress. He or she will make periodic visits to the site to familiarize himself or herself generally with the progress and quality of the work and to determine in general if the work is proceeding in accordance with the requirements of these regulations.
 - 3. The Applicant shall provide the Engineer in advance with a schedule of work to be performed and give the Engineer timely notice of the completion of each major stage in the construction of any required improvement so that the Engineer may inspect the work so completed prior to the covering thereof, and the Engineer shall make all such inspections with reasonable promptness so as to cause no delay in the work.
 - 4. In particular, the Applicant shall in the case of streets, give timely notice to the Engineer of the completion of clearing, subgrades, drainage, each base course, and base and final pavement.

5. The Applicant shall give the Engineer notice when any required improvement is completed and ready for final inspection. The Engineer will promptly make such inspection and, when he or she finds that the particular improvement has been fully completed in accordance with the requirements of these Regulations, he or she shall approve the same in writing. Such approval, in the case of a street, shall not constitute the legal acceptance of the street by the Town nor shall it modify in any way the requirements of law for the acceptance of streets by the Town.
6. The Applicant shall promptly remedy any defects in any required improvement due to faulty workmanship or materials, which appear within a period of one year after approval thereof by the Engineer.
7. Notwithstanding the on-site observations and inspections and any approvals of required improvements issued by the Engineer, the Applicant shall be and remain fully responsible for the performance of the construction work in accordance with the requirements of these Regulations, and the Engineer shall have no responsibility for the failure of the Applicant to carry out the work as required herein.
8. The Engineer may set out a construction observation schedule and criteria, to be agreed upon by the Applicant, for all public improvements.

202-16 Performance guaranty

- A. Estimate of cost: Prior to the approval of a plat by the Board, the Applicant or owner shall obtain from the Engineer an estimate of the cost of construction of all improvements, which will be required by the Board as a condition of final approval up to the standards set forth in these Regulations, together with an estimate of any damage to any existing public improvements caused in the course of the work performed in the development of the subdivision.
- B. Posting of performance guaranty: As a condition of the approval of a plat by the Board, the Applicant shall provide the Town with a performance guaranty to assure the Town of the completion of improvements required under these Regulations and repair of potential damage to existing public improvements. The performance guaranty shall be posted and in full effect prior to any construction of any improvements.
- C. Amount: The performance guaranty shall be in an amount equal to 110% of the estimated cost of required improvements and potential damages to public improvements as determined by the Engineer, and shall be upon conditions and in such form as the Board and the Board of Selectmen may require. The performance guaranty shall be in the form of a bond issued by a surety company registered and licensed to do business in the State of New Hampshire, a letter of credit or other collateral or surety arrangement, all in form and substance satisfactory to the Board of Selectmen, or a cash escrow, or a savings bank deposit book properly endorsed to the town and deposited with it.

D. Term

1. The performance guaranty shall remain in effect until the expiration of 13 months after the date of the approval by the Engineer of the completion of all required improvements and repair of all damages to public improvements in accordance with the provisions of these Regulations, or the date that all latent defects have been corrected by the Applicant and approved by the Engineer, whichever is later, and shall be conditioned in part upon the faithful correction by the Applicant of any latent defects which appear within the period of one year after the approval by the Engineer of any required improvements as set forth in these Regulations.
2. In the case of a letter of credit, cash deposit or an assignment of a savings bank deposit book, the amount on deposit may be reduced by the Board of Selectmen by resolution when portions of the required improvements have been installed, provided that a sufficient amount, not to exceed 25% of the total, is retained to cover the correction of any latent defects which may appear within one year following the approval by the Engineer of any required improvements as set forth in these Regulations.
3. A joint inspection for latent defects shall be made by the Engineer and Applicant not earlier than the 10th nor later than the 11th month following approval by the Engineer.
4. Release of the Performance Guarantee must be requested in writing by the applicant to the Town Department and Engineer, with the Planning Board and the Board of Selectmen approving such release.

- E. Default: If the required improvements and repairs to public improvements have not been installed and completed in accordance with the requirements of these Regulations or if any latent defects in such improvements or repairs appearing within a period of one year after approval thereof by the Engineer have not been corrected as required herein above, then and in that event any cash deposit or savings bank deposit may be used to complete the improvements or correct the latent defects, and in the event the performance guaranty is in the form of a performance bond, letter of credit, cash escrow or other surety, the Town shall be entitled to exercise its rights under the appropriate documents to require the surety or issuer of the letter of credit to provide the Town with sufficient funds to complete such work.

Article VIII Miscellaneous

202-17 Violations and penalties

- A. No Subdivision of land shall be made, and no land in any Subdivision shall be transferred, sold or offered for sale until a final plat, prepared in accordance with the requirements of these regulations, has been approved by the Planning Board.

- B. As provided in RSA 676:16, any owner, or agent of the owner, of any land located within a Subdivision, who transfers or sells any land before a plan of the said Subdivision has been approved by the Planning Board and recorded or filed in the office of the Merrimack County Registry of Deeds shall forfeit and pay a penalty of \$500 for each lot or parcel so transferred or sold and the description by metes and bounds in the instrument of transfer or other documents used in the process of selling or transferring shall not exempt the transaction from such penalties.

- C. The Town may enjoin a transfer or sale which violates the provisions of this section and may recover the penalty imposed by civil action. In any action to recover a penalty, the prevailing party may recover reasonable court costs and attorney's fees as may be ordered by the court.

202-18 Amendments

These Regulations may be amended or rescinded by the Planning Board, but only following public hearing on the proposed changes in accordance with RSA 675:6.