

**Chapter 159: SUBDIVISION OF LAND** Editor's Note: These rules and regulations governing the subdivision of land in the Town of Agawam are adopted under the Subdivision Control Law, MGL C. 41, § 81-K to 81-GG, inclusive. Purpose (MGL C. 41, § 81-M) reads as follows: "The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas. The powers of a planning board and of a board of 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 to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic, and other emergencies; for ensuring compliance with the applicable zoning ordinances or bylaws; for securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision, and for coordinating the ways in a subdivision with each other and with the public ways in the city and town in which it is located and with the ways in neighboring subdivisions."

[HISTORY: Adopted by the Planning Board of the Town of Agawam; amended through 8-17-1989. Subsequent amendments noted where applicable.

**GENERAL REFERENCES**

Building construction — See Ch. 82.  
Fees — See Ch. 103.  
Streets and sidewalks — See Ch. 155.  
Water and sewers — See Ch. 175.  
Zoning — See Ch. 180.

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## **ARTICLE I Authority and Interpretation**

### **§ 159-1. Adoption of rules.**

Under the authority vested in the Planning Board of the Town of Agawam by MGL C. 41, § 81-Q, the Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Agawam. Such rules and regulations shall be effective on and after the first day of June 1954. This authority shall be interpreted according to the directive of MGL C. 30, § 61 and 62.

### **§ 159-2. Amendment of statute. (Approved 7-18-1972)**

A. Section 2 of Chapter 30 of the Massachusetts General Laws is hereby amended by inserting after § 60 the following two sections:

"Section 61. All agencies, departments, boards, commissions and authorities of the commonwealth shall review, evaluate and determine the impact on the natural environment of all works, projects or activities conducted by them and shall use all practicable means and measures to minimize damage to the environment. Unless a clear contrary intent is manifested, all statutes shall be interpreted and administered so as to minimize and prevent damage to the environment. Any determination made by an agency of the commonwealth shall include a finding describing the environmental impact, if any, of the project and a finding that all feasible measures have been taken to avoid or minimize said impact.

"As used in this section and Section 62, damage to the environment' shall mean any destruction, damage or impairment, actual or probable, to any of the natural resources of the commonwealth and shall include but not be limited to air pollution; water pollution; improper sewage disposal; pesticide pollution; excessive noise; improper operation of dumping grounds; impairment and eutrophication of rivers, streams, floodplains, lakes, ponds or other surface or subsurface water resources; and destruction of seashores, dunes, marine resources, wetlands, open spaces, natural areas, parks or historic districts or sites. Damage to the environment shall not be construed to include any insignificant damage to or impairment of such resources.

"Section 62. No agency, department, board, commission or authority of the commonwealth or any authority of any political subdivision thereof shall commence any work, project or activity which may cause damage to the environment until 60 days after it has published a final environmental impact report in accordance with the provision of this section or until 60 days after a public hearing on said report, provided that research, planning, design and other preliminary work necessary to describe and evaluate such project for the purposes of this section may be undertaken.

"An environmental impact report shall contain detailed statements describing the nature and extent of the proposed work and its environmental impact; all measures being utilized to minimize environmental damage; any adverse short-term and long-term environmental consequences which cannot be avoided should this work be performed; and alternatives to the proposed action and their environmental consequences. The preparation of said report shall be commenced during the initial planning and design phase of any work, project or activity subject to this section, and the report shall be so prepared and disseminated as to inform the originating agency, reviewing agencies, the appropriate regional planning commission, the Attorney General and the public of the environmental consequences of state actions and the alternatives thereto prior to any commitment of state funds and prior to the commencement of the work, project or activity. All reviewing agencies and any state agency, department, board, commission, division or authority which has jurisdiction by law or special expertise with respect to any environmental impact involved shall affix their written comments to the final impact report. In order to ensure an interdisciplinary review, the Secretary of Environmental Affairs shall, in conjunction with any agency involved, jointly approve the selection of any consultant engaged to prepare the draft or final impact report.

"The secretaries of the executive officer shall each promulgate rules and regulations approved by the Secretary of Environmental Affairs to carry out the purposes of this section which shall be applicable to all agencies, departments, boards, commissions, authorities or instrumentalities within each of such executive offices and which shall conform to the requirements of the National Environmental Policy Act, Public Law 81-190, and amendments thereto. Any draft report, final report and all written comments required by said regulations shall be public documents. Said reports shall be submitted to the Secretary of Environmental Affairs, who shall issue a written statement indicating whether or not in his judgment said reports adequately and properly comply with the provisions of this section.

"For the purposes of carrying out the provisions of this section, funds made available for the purpose of design of or planning or performing said work, project or activity shall be available and may be expended for the research, preparation and publication of the reports required by this section and expenses incidental thereto, and said funds may be transferred or otherwise may be made available to other state departments and resource agencies designated by the Secretary of Environmental Affairs for the purpose of meeting the expenses incurred in evaluating the draft or final impact report.

"Section 3. Section 61 of Chapter 30 of the Massachusetts General Laws, inserted by Section 2 of this Act, shall take effect on December 31, 1972, and Section 62 of said Chapter 30, inserted by said Section 2, shall take effect on July 1, 1973."

B. Attention is directed also to the National Environmental Policy Act of 1969, Public Law 91-190.

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## **ARTICLE II General Provisions**

### **§ 159-3. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

APPLICANT or SUBDIVIDER — The owner of record of the tract of land to be subdivided, or

his agent duly authorized in writing.

BOARD — The Planning Board of the Town of Agawam.

LOT — An area of land in one ownership, with definite boundaries, used or available for use as the site of a principal building and its accessory buildings. A "lot" within a subdivision shall mean such an area whose boundaries are recorded and which area has no interior division.

SUBDIVISION — The division of a tract of land into two or more lots in such manner as to require provisions for one or more new ways not in existence when the Subdivision Control Law [Editor's Note: See MGL C. 41, § 81K through 81GG, inclusive.](#) became effective in the Town of Agawam to furnish access for vehicular traffic to one or more such lots, and shall include resubdivision and, when appropriate to the context, shall relate to the process of subdivision of the land or territory subdivided.

**§ 159-4. Plan believed not to require approval.**

- A. Any person who wishes to cause to be recorded in the Registry of Deeds or to be filed with the Land Court a plan of land and who believes that his plan does not require approval under the Subdivision Control Law may submit his plan, two originals and two copies, minimum, and application Form A [Editor's Note: Form A is on file in the Planning Department offices.](#) to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or registered mail, a notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. A filing fee of \$35 shall accompany the application. **[Amended 4-5-1990]**
- B. Said plan shall be at a scale no smaller than one inch equals 40 feet and shall be 24 inches by 36 inches or 18 inches by 24 inches in size and shall show all existing structures and their relationship to the proposed property lines. The plan shall be of such sheet size and layout so as to conform to the regulations of the Registry of Deeds. A block space, 3.5 inches wide by four inches high, shall be available adjacent to the right on the bottom margin for the endorsement of the Planning Board.
- C. If the Board determines that the plan does not require approval, it shall without a public hearing and within 21 days of the submission endorse on the plan the words "Planning Board Approval Under Subdivision Control Law Not Required." Said plan shall be returned to the applicant, and the Board shall notify the Town Clerk of its actions.
- D. If the Board determines that the plan does require approval under the Subdivision Control Law, it shall within 21 days of submission of said plan so inform the applicant and return the plan. The Board shall also notify the Town Clerk of its determination.
- E. Any plan so endorsed shall be recorded with the Registry of Deeds within six months. Proof of recording shall be submitted to the Planning Board. Failure to record the plan within six months and provide proof of recording will negate the action of the Board.

**§ 159-5. Submission of plans required; consent of Board required.**

- A. No person shall make a subdivision within the town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a preliminary and definitive plan involved therefrom of such subdivision has been submitted to and approved by the Planning Board as hereinafter provided.
- B. Not more than one building designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, or elsewhere in the town, without the consent of the Planning Board. The consent of the Board shall be

conditional upon conformance with the applicable zoning ordinances *Editor's Note: See Ch. 180, Zoning.* and the provision of adequate ways and utilities furnishing access to each site of such building the same as otherwise required for lots in a subdivision.

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## ARTICLE III Plan Submission and Approval Procedure

### § 159-6. Preliminary plan.

#### A. General.

- (1) An application for approval of a preliminary plan of a subdivision shall be submitted to the Planning Board by the applicant, who is defined in § 159-3. The submission of such a preliminary plan will enable the subdivider, the Board, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of such subdivision before a definitive plan is prepared.
- (2) A definitive plan will not be reviewed unless a preliminary plan has been submitted and subsequently approved. Rules and regulations in effect at the time of the definitive submission shall apply unless the definitive plan is submitted within seven months of the date of preliminary submission, in which case the rules and regulations in effect on the earlier date shall still apply.

#### B. Method of submission.

- (1) An application for approval of a preliminary plan shall be submitted within 14 days prior to the first regular meeting of the Board for that month. The application shall be placed on the agenda for review on the first regular meeting of the month. If the application is deemed incomplete, the Board, by vote, may reject the plan, and no further action shall be taken by the Board until the applicant resubmits an amended application. The decision shall be filed with the Town Clerk; the applicant shall be notified by certified mail.
- (2) Notice shall be given to the Town Clerk when the preliminary application is filed with the Planning Board. A filing fee of \$25 plus \$5 per acre or any part thereof shall accompany the application. Payment shall be made by check payable to the Town of Agawam. Should the application be determined to be incomplete, the fee shall be returned and all privileges shall be voided.

#### C. Contents of application.

- (1) Preliminary submissions shall include the following:
  - (a) A completed Form B. *Editor's Note: Form B is on file in the Planning Department offices.*
  - (b) A Statement of Interest in the land by the applicant. *Editor's Note: The Statement of Interest is on file in the Planning Department offices.*
  - (c) A location map of the site and surroundings sufficient to locate the site from existing intersections, pump stations, etc. The scale shall be one inch equals 1,200 feet.
  - (d) An environmental study. The environmental study need not be compiled by a professional agency. The applicant may make the observation and determinations himself, with such assistance from engineers, nursery men, etc. as is necessary for accuracy in the technical areas. Photographs to support the observations should be included. The short form contained in Chapter 30, § 62, of the Massachusetts Environmental Act may be used for guidance. The study shall be presented in report form with drawings or maps as needed for clarification. The study shall contain:

- [1] The relationship of the proposed development to the Master Plan, Zoning Map, policies and controls for the affected area.
- [2] Existing topography, water table, drainage features, natural geologic elements, stands or groves of trees, shrub rows or other wildlife habitats, scenic qualities, easements and rights above, on or under the land and the current nature of man's use of the area; a topographic sheet with existing and finished contours at two-foot intervals; spot elevations as needed. Contour lines shall extend at a minimum 30 feet beyond the property lines.
- [3] The effect of the proposed development, both positive and negative, upon the environment, including consideration of those elements in Subsection C(1)(d)[2] above; visual, including but not limited to aesthetic considerations and signs and architectural elevations; traffic, pedestrian and vehicular, within and in the surrounding areas servicing the proposal; solid waste containment and disposal; air and water quality; also radiation and hazardous substances control; historic architectural and archaeological preservation; and outdoor recreation, if involved in existing or proposed development. Does the proposal involve a filing under the Massachusetts Wetlands Protection Act, MGL C. 131, § 40?

(e) A preliminary plan, which shall include:

- [1] A lot survey with existing easements, abutters and zone lines; existing streets abutting the proposal (type of street, see § 159-8B).
- [2] A topographic plan showing:
  - [a] Existing contours at two-foot intervals extending at least 30 feet beyond the property lines.
  - [b] Environmental elements, including such things as the following: all areas regulated by the Massachusetts Wetlands Protection Act, MGL C. 131, § 40, shall be verified by the Agawam Conservation Commission through a determination of applicability; existing stone walls, fences, existing buildings, trees with a diameter greater than eight inches measured five feet above the ground, shrub rows, rock ridges and outcroppings, water bodies and any other noteworthy feature of the land.
  - [c] Proposed street and lot lines sketched in; spot grades on the center lines of streets (high spots, low point, intersection); indication of the types of streets. (See Article IV, Design Standards.)
- [3] Indication of sewerage, water and surface water systems.

(f) An attested copy of the deed of the property.

(2) Plans shall be presented in one original plus four copies, minimum. Other documents shall be presented in two copies. One set will be returned to the applicant as endorsed.

D. Action of the Board. The Board shall confer with any boards or commissions which have an interest in the proposal. Within 45 days after submission of a preliminary plan, the Board shall approve, approve with amendments or disapprove the plan. The applicant shall be notified by certified mail. The Town Clerk also shall be notified. In the case of disapproval, the Board shall state in detail its reasons therefor. Section 81S of Chapter 40 of the Massachusetts General Laws shall apply. The Planning Board shall also notify abutters to the proposal of the submission and shall have the submission available for their review at the Town Hall.

## § 159-7. Definitive plan.

### A. Timing.

- (1) No person shall submit a definitive plan of a subdivision to the Planning Board for approval unless a preliminary plan has been approved by the Board. The definitive plan shall not vary substantially from the approved preliminary plan.
- (2) The definitive plan shall conform to the applicable Zoning Ordinance.

### B. Method of submission.

- (1) An application for approval of a definitive plan shall be submitted within 14 days prior to the second regular meeting of the Board for the month.
- (2) The application shall be placed on the agenda for submission review on the second regular meeting of the month. If the application is deemed incomplete, the applicant will be notified by certified mail that the plans will not be further reviewed and that after the required public hearing the Board, by vote, may reject the plans due to improper submission.
- (3) If, prior to the public hearing, the applicant completes the application, the amended submission shall be accompanied by a request for an appropriate extension of time.
- (4) The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of application for such approval and accompanied by a copy of the complete application (Form C). *Editor's Note: Form C is on file in the Planning Department offices.*
- (5) A filing fee of \$150 plus \$60 per acre or any part thereof shall accompany the application. Payment shall be by check payable to the Town of Agawam.
- (6) Land which is to be secured by conservation easement or deeded to the town as public open space and is so indicated on the plan shall not be subject to the acreage filing fee.

### C. Contents of application. Submission of a definitive plan application shall include the following:

- (1) A statement of interest in the land by the applicant. *Editor's Note: The Statement of Interest is on file in the Planning Department offices.*
- (2) An attested copy of the deed of the property.
- (3) An updated environmental study (reference to previous study and to include any changes which have occurred in the time interval).
- (4) Final plans and specifications as required:
  - (a) A title sheet showing the index to drawings and a location map at a scale of one inch equals 1,200 feet.
  - (b) A lot survey with road layout and lot lines suitable for filing with the Registry of Deeds. See Subsection G(2). Roadway layout, roadway center line and property lines shall be tied into the Agawam Coordinate System. Coordinate traverse point locations can be obtained from the Engineering Division. After the definitive plan is approved, coordinates of roadway layout and center line data as well as property line data shall be furnished to the City Engineer in digitized or hard copy form as specified by the City Engineer. **[Amended 3-21-1991]**
  - (c) A topographic sheet with existing and finished contours at two-foot intervals; spot elevations as needed. Contour lines shall extend at a minimum 30 feet beyond the property lines. Center lines of roads with stations and elevations shall be shown. Where septic tanks and leach fields are being used, areas of leach fields shall be shown by spot elevations. The general location of proposed buildings shall also appear on this plan, and the finished grade of land at the four corners.

- (d) Road layouts and profiles, including those of all utilities. (See Article IV.) Curb cuts and driveways within the street line shall be shown.
  - (e) Detail sheets as needed.
- (5) A statement of the time-development sequence.
- (6) A plan showing the sequence of development. All bonding must conform to these divisions.
- (7) A town-development relationship study, for information purposes only:
- (a) The impact on utilities and services which will be required to service the development.
  - (b) The tentative sale price of houses, type of housing and square footage of finished living space per unit.
- (8) A report of test borings and soil samples, water table tests and soil absorption tests (percolation tests):
- (a) Borings and soil samples. Borings and soil tests shall be made by a reputable soil testing firm approved by the Town Engineer. Borings shall be made in general every 250 feet along the center line of each roadway or closer if required by the Town Engineer and in easements at the discretion of the Town Engineer. The borings shall extend to a depth of one foot below the deepest utility. The borings should be shown on the profiles of the construction plans and should indicate the type of soil and the depths at which they are encountered, the standard penetration resistance (N) of each type of soil and the elevation of the water table. In addition, soil samples shall be taken at the street borings of the material which will form the subgrade of the proposed roadways. A sieve analysis shall be made of these samples with the percent passing the one-half-inch, No. 4, No. 10, No. 40 and No. 200 sieves being reported. Also, the liquid limit, plasticity index and group index of the samples shall be determined and reported. The developer may provide test pit logs from backhoe-dug test pits at the above-described locations. These test pits will be provided at the developer's option and will not necessarily relieve him of the requirements for penetration tests and samples noted above.
  - (b) Soil absorbency tests and water table observation tests.
    - [1] All percolation tests (soil absorbency tests) shall be made at the final location and elevation of the proposed leaching field and wherever else determined by the Town Engineer. All tests will only be performed during the period of April 1 to June 15, provided that all frost is out of the ground. Soil with a percolation rate of over 15 minutes per inch shall not be suitable for septic tanks and leach fields. Soil with a percolation rate of over one minute per inch shall be unsuitable for subsurface leaching fields and street drains. A groundwater observation hole a minimum of seven feet in depth must be measured from the elevation of the property after finished grading. All tests must be made in the presence of the Town Engineer or his agent. Where the test is to be made in filled ground for sanitary sewerage disposal purposes, the fill must be in place at least six months prior to the date on which the test is made. Tests made under this section may be utilized by the Board of Health, provided that any additional requirements of that Board have been complied with.
    - [2] Plans shall be presented in two sets of original or reproducible drawings and five sets of copies. All other documents shall be presented in three copies. One set of original plans and one copy of other documents will be returned to the applicant as endorsed.

D. Preparation of definitive plan. The definitive plan shall be prepared by an engineer and/or surveyor and shall be clearly and legibly drawn in black India ink upon Mylar. The plan shall be at a scale of one inch equals 40 feet or such other scale as the Board may accept to show true bearings, curve data and accurate dimensions. Sheet sizes shall not exceed twenty-four by thirty-six (24 x 36) inches. The definitive plan shall contain the following information:

- (1) The subdivision name, boundaries, North point, date and scale.
- (2) The name and address of the record owner, subdivider and engineer or surveyor who shall indicate by stamp registration in the Commonwealth of Massachusetts.
- (3) The names of all abutters as they appear on the most recent tax list.
- (4) The existing and proposed lines of 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 Board.) Contents of titles, covenants and easements shall be reproduced in full either on the plan or appended thereto.
- (5) Sufficient data to determine the location, direction and length of every street and way line, lot line and boundary line and to establish these lines on the ground.
- (6) The locations of all permanent monuments properly identified as to whether existing or proposed.
- (7) The locations, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision.
- (8) Suitable space to record the action of the Board and the signatures of the members of the Board (or officially authorized person). The block shall be three and five-tenths by seven (3.5 x 7) inches, minimum.
- (9) Existing and proposed topography at two-foot contour intervals as required by the Board.
- (10) Profiles on the center lines of proposed streets at a horizontal scale of one inch equals 40 feet and vertical scale of one inch equals four feet, or such other scales acceptable to the Board. All elevations shall refer to the town datum. A minimum of one bench mark shall be provided based upon town (United States Geological Survey, National Geodetic Vertical Datum) datum.
- (11) The proposed layout of storm drainage, public water supply and public sewage disposal systems. If wells and/or septic tanks and leach fields are intended to be utilized, these shall be shown by general indication of location with spot elevations on the finished grading sheet. The Board of Health reserves the right to make final determination concerning location and specifications of private water and sewage systems.

E. Review by Board of Health as to suitability of the land.

- (1) The Planning Board shall, within 10 days after submission of a plan, consult with the Board of Health. If the Board of Health is in doubt as to whether any of the land in the subdivision can be used as building sites without injury to the public health, it shall so notify the Planning Board, in writing, within 30 days. Any approval of the plan by the Planning Board shall then only be given on the condition that the lots or land as to which such doubt exists shall not be built upon without prior consent of the Board of Health, and shall endorse on the plan such condition, specifying the lots or land to which said condition applies.
- (2) The data obtained in § 159-7C(7) shall be submitted by the Planning Board to the Board of Health for its review.
- (3) Any lot so located that it cannot be served by a connection to the municipal sewer

system shall be provided with a septic tank and drain field satisfactory to the Board of Health.

- F. Public hearings. Before approval of a definitive plan is given, a public hearing shall be held by the Planning Board. Notice of such hearing shall be given by the Board at least 14 days prior thereto by advertising in an official publication of, or in a newspaper of general circulation in, the Town of Agawam. A copy of said notice shall be mailed to the applicant and to all owners of land abutting the subdivision and within 500 feet of it, as appearing in the most recent tax list. A petition for a change of zone when necessary shall be entered and heard concurrently with the subdivision approval hearing if the Council has referred a zone change request back to the Board. The Planning Board may notify the Pioneer Valley Planning Commission (PVPC) and abutting communities if the proposal would have regional significance.
- G. Action of the Board; approval or disapproval.
- (1) Board action.
- (a) The Planning Board shall confer with any boards or commissions which have an interest in the proposal. The action of the Board in respect to such plan shall be by vote. The certificate of such action shall be filed with the Town Clerk and sent by registered mail to the applicant.
- (b) After the public hearing as required above, the Board shall approve or, if the plan does not comply with the Subdivision Control Law or the rules and regulations of the Planning Board or the recommendation of the Board of Health or its agent, shall approve with modification or disapprove such plan. In the event of disapproval, the Planning Board shall state in detail wherein the plan does not conform to the rules and regulations of the Board or to the recommendation of the Board of Health or its agent, and the Board shall revoke its disapproval and approve the plan which, amended, conforms to such rules and regulations or recommendations. Final approval, if granted, shall be on the condition that the plan meets approval under the Wetlands Act, MGL C. 131, § 40.
- (c) Final approval, if granted, shall be endorsed on the original drawing of the definitive plan by the signatures of a majority of the Board, but not until the statutory twenty-day appeal period has elapsed following the filing of the certificate of the action of the Board with the Town Clerk, and said Clerk has notified the Board that no appeal has been filed. After the definitive plan has been approved and endorsed, the applicant shall furnish the Board with three extra endorsed lot layout sheets and the book and page of the Registry of Deeds (and/or Land Court) where such plan is recorded.
- (2) Rescission of approval.
- (a) A covenant filed with the Registry of Deeds and described in Subsection H below shall contain the following statement: "The construction of all ways and the installation of all municipal services shall be completed in accordance with the applicable rules and regulations of the Board within \_\_\_\_\_ months from date of endorsement. Failure to so comply shall automatically rescind approval of this plan."
- (b) Time shall be determined from the time-development sequence.
- (c) Any bond allowed under Subsection H below shall be drawn to accomplish the intent and purpose of this section. Promptly, the applicant shall furnish the Planning Board with the book and page of the Registry of Deeds (and/or Land Court) wherein the covenant is recorded.
- H. Performance guaranty. Before endorsement of approval on the definitive plan, the Board shall require the guaranty of installation of all work required by this regulation which shall be

performed by the applicant or his agent by a covenant running with the land which shall be filed with the Registry of Deeds, or by posting of bond or depositing moneys with the Town Treasurer.

(1) Covenant. [See Subsection G(2) above]

- (a) Such covenant shall state that no lot in the subdivision shall be conveyed other than by mortgage deed and no building shall be erected thereon until the improvements specified in the regulations are constructed and installed so as to serve the lots adequately. Such condition shall be endorsed upon the plan or contained in a separate vote or agreement which shall be referred to on the plan and recorded in the Registry of Deeds. When the applicant has completed the required improvements specified in the regulations, including the documents for street acceptance (Subsection J), for any lots in a subdivision, he may request a release of the covenant for said lots. If the improvements have been completed to the satisfaction of the Board, the Board will then execute and deliver to the applicant such release, which shall be in the form for recording in the Registry of Deeds. The Planning Board may require a deposit of security (cash only) and agreement to guarantee the performance of the work until the lots are improved. Thereafter the conditions relating to such lots so released shall terminate.
- (b) The applicant shall furnish the Board with one copy of the recorded covenant.

(2) Bond.

- (a) The applicant may elect to post a performance bond for part or all of the work to be accomplished according to the plan showing sequence of development. The performance bond and/or deposit money shall be an amount determined by the Board to be sufficient to cover the cost of all improvements specified in these regulations for the division of work and as described in a related bond agreement. All surety bonds shall be submitted to the Counsel from the Planning Board for approval as to form prior to submission to the Town Treasurer for approval as to sufficiency and custody. Bonds shall be written for the time required as specified in the time-sequence of development statement and related bond agreement.

(b) Pump station; utility services; binding of corporations.

- [1] If a pump station is included in the definitive plan, this work shall be secured separately and completed as to operational capacity, standby power and warning system before a covenant relating to any lots shall be released.
- [2] The utility services, gravel base and base coat of blacktop shall be accomplished under covenant, cash security or a security bond (such bond in an amount twice the amount of cash security needed). The remainder of the work shall be secured by cash security or by a security bond (such bond in an amount twice the amount of cash security needed). The amount of security specified shall include reasonable attorney's fees and related engineering costs.
- [3] Corporate owners shall produce proper authority for the signer of the performance agreement to bind the corporation, and the corporation major stockholder shall bind himself personally to the terms of the performance agreement.

(3) Extension of time. If the time schedule is altered, notice must be given to the Planning Board which, at its discretion, may extend the time of completion, provided that any securities then held by the town must be reviewed and increased as necessary to cover any increased cost of improvements.

(4) Upon request, partial release of securities shall be made upon acceptance by the Board of the work completed.

- (5) Building lot bond. A performance bond will be required of contractors or other parties constructing residences upon vacant lots where curbs, sidewalks, treebelts and other municipal facilities have been placed at the lot frontage. The requirements for this bond shall conform to the applicable provisions of Subsection H(2) of these regulations. The bond amount shall be based upon the potential damage of town facilities plus administrative costs. It shall be the responsibility of the developer to ensure that all permitted but uncompleted residences existing in the subdivision at the time of subdivision bond release have proper building lot bonds.
- (6) Inspection fee. **[Added 3-21-1991]**
- (a) There shall be a fee instituted to pay for the costs of inspection. The fee shall be based upon the linear footage of roadway, water lines, sewer lines and drainage lines. The footage shall be as measured on the approved definitive plans. Any substantial increase in constructed footages over the plan footage shall result in a prorated increase in fee. Roadways shall be measured along the center line, from its beginning intersection with an existing street layout line or other beginning point to the final intersection with another street or existing layout line, so as to encompass all proposed rights of way. Culs-de-sac shall be measured on the basis of a center line extending straight through the center of the cul-de-sac to the far edge of the layout. Water line connections and building sewers in the right-of-way will not be included in the measurement for fee determination, except where their length exceeds 40 feet.
- (b) The unit rate of inspection fee levied shall be \$0.75 per linear foot measured on each of the four categories cited above. The total inspection fee shall be equal to the unit rate times the total footage of each line category of inspection (roadway, water, sewer and drain lines) as measured by the City Engineer. The fees described above must be paid prior to the commencement of construction, but these fees need only be paid beforehand for the particular phase of work to be undertaken, e.g., roadway, sewer, water or drain. When warranted by inflation of other factors, the unit inspection fee will be increased as proposed by the Agawam Department of Public Works and approved by the Planning Board.
- I. Notification of completion. Upon completion of the subdivision, the applicant shall notify the Planning Board that the subdivision is ready for final inspection with respect to the removal of the bond.
- J. Documents for acceptance of street by Council.
- (1) Upon completion of the subdivision, the applicant shall provide the town with an as-built plan suitable for presenting to the Town Council for acceptance of the street. Remaining securities held by the town will not be released until an as-built plan has been certified by the Board as completed for submission to the Council.
- (2) The applicant shall provide the town with a standard hold-harmless agreement regarding any claims created by virtue of any actions taken by the developer and a statement from the applicant that he gives up the right to any claims he may hold within the development.

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## **ARTICLE IV Design Standards**

### **§ 159-8. Streets.**

#### **A. Location and alignment.**

- (1) All streets in the subdivision shall be designed so that, in the opinion of the Board, they

will provide safe vehicular travel and discourage nonterminal traffic and excessive speed. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain the maximum livability and amenity of the subdivision.

- (2) The proposed streets shall conform to the master or study plan when adopted in whole or in part by the Board.
- (3) Provision satisfactory to the Board shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided.
- (4) Reserve strips prohibiting access to streets or adjoining property shall not be permitted.
- (5) 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 60°.
- (6) Minimum distance between adjacent parallel streets is 300 feet at intersections. This provision shall include streets on both sides of the street intersected. There shall be no offsets at intersections with four or more legs. **[Amended 3-21-1991]**
- (7) No new streets shall be designed so as to create zoning violations. **[Added 4-5-1990]**

B. Type of streets.

- (1) Any proposed street shall be indicated on the plans as being one of the following classes:
  - (a) Place: These streets shall be not over 500 feet in length, unless otherwise allowed by the Board, with no allowance for future extension. A maximum average daily traffic (ADT) of 100 vehicles per day will be allowed for a street to be classified as a place.
  - (b) Lane: The major purpose of these streets shall be to provide access to lots. They would be streets not subject to nonterminal traffic. The ADT for this type of street would be between 100 and 400 vehicles per day.
  - (c) Subcollector: The ADT for this type of street would be between 400 and 1,000 vehicles per day. For the most part this type of street will serve several places or lanes.
  - (d) Collector: The ADT for this type of street would be between 1,000 and 3,000 vehicles per day.
  - (e) Arterial: The ADT for this type of street would be over three thousand (3,000) vehicles per day.
- (2) The ADT of a street shall be determined by applying a factor of 10 vehicles per day per lot served either directly or indirectly by the street plus an allowance for through traffic where applicable. The classification of each street in a subdivision and an estimate of its ADT should be included in or with the plans. The Planning Board reserves the right to make the final decision regarding the classification of a street and its estimated ADT. Consideration must be given to future traffic from undeveloped land which would be served by the proposed street system.

C. Design requirements. See Table 4.1. **Editor's Note: Table 4.1 is included at the end of this chapter.**

D. Intersections. The intersection of places and lanes with other streets shall have a property line radius of 15 feet and a curblin radius of 25 feet. The intersections of all other streets shall have a property line radius of 25 feet and a curb radius of 35 feet. The Planning Board reserves the right to increase these radii wherever it may deem necessary for public safety. Maximum grade allowed within 100 feet of an intersection, measured from the outer gutter line, is 2.5%. **[Amended 3-21-1991]**

E. Dead-end streets.

- (1) Dead-end streets shall not be longer than 500 feet unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions.
- (2) Dead-end streets shall be provided at the closed end with a turnaround having an outside roadway diameter of at least 100 feet and a property line diameter of at least 120 feet.
- (3) Minimum gutter grades on culs-de-sac will be 1.00%.

#### **§ 159-9. Typical cross section.**

A typical cross section can be found in Figure 4.2. *Editor's Note: Figure 4.2 is included at the end of this chapter.*

#### **§ 159-10. Easements.**

- A. Easements for proposed or future utilities across lots or centered on rear or side lot lines shall be provided and shall be at least 20 feet wide with provisions made for access thereto.
- B. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, a stormwater easement or drainage right-of-way 30 feet in width shall be provided. In addition to providing for construction, maintenance and access, said easements shall contain flowage rights. In the event that a stream is of a seasonal nature or the exact course cannot be determined, then total flowage rights across the land in question shall be provided.
- C. When, in the opinion of the Planning Board, pedestrianways or bicycle paths should be provided to connect with adjacent land, an easement (or deed) shall be granted to the town for such purpose. To the greatest extent possible, pedestrianway easements shall coincide with those of underground utilities.

#### **§ 159-11. Sewerage.**

- A. Wherever possible, sanitary sewers shall be installed to serve a proposed subdivision. The sewers shall be designed so that the velocity of the flow will be at least two feet per second during periods of peak flow. The sizing of sanitary sewers shall be as specified in the Sanitary Sewer Study for the Town of Agawam, 1972, by Tighe & Bond and/or as approved by the Town Engineer. The total design of the system shall also meet with the approval of the Town Engineer.
- B. In areas where sanitary sewers are not presently available but where provisions are made for their future construction in the Sanitary Sewer Study and the town's capital budget program, then a capped sanitary system, including laterals, shall be installed.
- C. Sewage pumping stations or lift stations, where necessary and allowed, shall meet with the approval of the Town Engineer. In general these stations will only be allowed where called for in the Sanitary Sewer Study. In some cases stations other than those shown in the study will be allowed if it can be demonstrated that the station will be able to be eliminated by trunk sewer construction in the foreseeable future. The costs of operating and maintaining a station shall not be assumed by the town until one year from the date of completion of the last house in the last section of the subdivision.
- D. The sewer lateral to each lot shall be shown on the plans. During the time the applicant is responsible for the station he shall enter into an agreement with the Town of Agawam relative to its maintenance and operation.

#### **§ 159-12. Drainage.**

- A. A system of drains shall be installed to collect stormwater from the proposed streets and lots and to transmit the water to a point where it may be discharged in a natural watercourse or stream. The drains shall be designed to have a minimum velocity at design flow of three feet per second and a maximum velocity of 10 feet per second. The sizing of storm drains and culverts shall be as specified in the Report on Storm Drainage for the Town of Agawam by Tighe & Bond, 1972, and/or as approved by the Town Engineer.
- B. In general, surface water from the lots shall not be deposited directly into the ways. The area within the setback line may be graded to drain toward the street line. All other surface water from individual lots shall be handled insofar as possible within the lots themselves. Developers shall provide for lot surface drainage by a system separate from drainage of the street, by the use of swales, culverts, retention ponds, yard drains and piping, riprapped outlets at the water body, etc., in a manner which shall protect the natural water table unless the lowering of the water table is necessary for the health of the occupants. Strict attention shall be paid to the relationship of leaching fields to surrounding grading. Surface water systems shall not connect into the road drainage system except by permission of the Board, in which case such condition shall be noted on the approved plan. The total design of the system shall also meet with the approval of the Town Engineer.
- C. Where, in the opinion of the Town Engineer and/or Planning Board, the discharge of stormwater from a subdivision will alter the character of a watercourse to overflow its banks (confines), then the applicant will be required to submit drainage and flowage easements along said watercourse to a point where it is determined by the Town Engineer and/or Planning Board that the effect of the stormwater drainage discharge will have a negligible effect on the watercourse. The easements and flowage rights shall be of such width to cover the extent of the suspected flooding. These easements and flowage rights will be required both within and outside of the boundaries of the proposed subdivision. The total design of the system shall also meet with the approval of the Town Engineer.
- D. All subdivisions shall be constructed in conformance with the Town Storm Drainage Ordinance. *Editor's Note: See Art. VII of Ch. 175, Water and Sewers.* Detention ponds will be utilized as required and each detention pond will be fenced except as otherwise required by the Department of Public Works. Construction standards shall comply with Department of Public Works Standards. No dry wells or leaching fields for the underground disposal of stormwater will be allowed. No stormwater holding ponds without positive surface outlets shall be allowed.

#### **§ 159-13. Water.**

- A. Water mains and appurtenances such as hydrants, valves, blowoffs and air release valves shall be installed to serve all lots on each street in the subdivision. The sizing of water mains shall be as specified in the Water Distribution Study when completed and/or as required by the Town Engineer. In general the minimum size water main that will be allowed is an eight-inch-diameter line.
- B. Hydrants shall be installed to provide fire protection to the subdivision. The maximum distance allowed between hydrants is 500 feet. Wherever possible, hydrants should be located at lot lines.
- C. All intersections of water mains shall be fully valved. Also, main line valves shall be installed every 1,000 feet along a water main.
- D. The water service connection to each lot shall be indicated on the plans. The total design of the system shall also meet with the approval of the Town Engineer.

#### **§ 159-14. Other utilities.**

Underground electric and telephone lines and gas mains, including service connections, shall be shown on the plans. The location of streetlighting standards shall be indicated on the plans and the lighting shall be of a type adopted for use in the Town of Agawam. The location and design of streetlighting systems shall meet the requirements of the Department of Public Works. Letters from respective utility companies shall be submitted to the Board indicating their approval of the utility design.

**§ 159-15. Open spaces.**

Before approval of a plan, the Board may also in proper cases require the plan to show a park or parks suitably located for playground or recreation purposes or for providing light and air. The park or parks shall not be unreasonable in area in relation to the land being subdivided and to the prospective uses of such land. The Board may, by appropriate endorsement on the plan, require that no building be erected upon such park or parks without its approval.

**§ 159-16. Protection of natural features.**

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

**§ 159-17. Pedestrianways and bicycle paths.**

Provisions for pedestrian and bicycle access shall be made in all subdivisions connecting public open space or commercial areas. When roads do not connect with the adjacent subdivisions or open land, such nonvehicular access shall be provided. The pedestrian/bike path shall be eight feet in paved width with a minimum easement or deeded width of 16 feet. All ways shall be clearly marked and landscaped to protect adjoining lot owners. Such ways shall be secured by easement or deeded to the town.

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**ARTICLE V Construction Standards and Required Improvements**

**§ 159-18. Preconstruction conference.**

Prior to ordering materials or starting any construction, the subdivider together with his contractor and engineer (if applicable) shall arrange for a meeting with the Engineering Division and the City Planner. At this meeting, the rules for conducting construction operations in the subdivision and on city streets will be outlined and discussed. Notices to be given, methods and materials to be employed, how utility connections are to be made, fees required and other operational matters will be discussed.

**§ 159-19. Street and roadway.**

- A. The entire area of each street or way shall be cleared of all stumps, brush, roots, boulders, like material and all trees not intended for preservation.
- B. All loam, clay, peat or other yielding material shall be removed beneath all street layouts to a depth specified by the Town Engineer and shall be replaced with a granular material acceptable to the Town Engineer.
- C. Whenever it is necessary to install fill to bring a roadway to subgrade, said fill shall be of a granular material satisfactory to the Town Engineer. All fill shall be placed in eight-inch layers compacted to not less than 95% of this maximum dry density so specified in the

Massachusetts State Department of Public Works Standards. The developer shall be responsible for the costs of all soil testing and analysis required by the Town Engineer.

- D. Wherever the borings indicate a groundwater within four feet of the proposed roadway surface or wherever the soil particle size indicates the possibility of a capillary rise of water in the subgrade soil, subdrains shall be installed under both shoulders of the roadway. The design and depth of the subdrain shall meet with the approval of the Town Engineer.
- E. Wherever rock, in the opinion of the Town Engineer, is encountered, it shall be excavated to a depth of four feet below the subgrade of the roadway for the full width of the street layout. The excavated rock shall be replaced with a granular material satisfactory to the Town Engineer.
- F. Roadways shall be brought to the subgrade elevation prior to the installation of the water mains, storm drains, sanitary sewer or other utilities. Additional requirements for design of pavement for certain subgrade soils may be necessary.
- G. The subgrade of the roadway shall be compacted to a density and by a method approved by the Town Engineer prior to the placing of the subbase or base of the roadway.
- H. Subbase.
  - (1) The material used for a subbase shall be crushed gravel that meets with the approval of the Town Engineer and Massachusetts Department of Public Works Specifications. This material shall conform to AASHTO Soil Classification subgroups A-1-a, A-2-4, A-1-b or A-2-5 and shall have a group index of zero, a maximum plasticity index of six and a maximum liquid limit of 25. Furthermore, the gravel shall conform to the gradation requirements of § M 1.02.0 of the Standard Specifications of the Massachusetts Department of Public Works. A tack coat of bitumen at the rate of 0.05 to 0.10 gallons per square yard shall be applied to the base course of pavement all as determined by the City Engineer. Material and placement shall be as approved. The tack coat shall be only applied to the extent that it can be covered with the surface course within one day. **[Amended 3-21-1991]**
  - (2) The maximum size aggregate for subbase courses shall not exceed four inches. The cost of any soil tests needed to determine the suitability of a material for use as a subbase shall be borne by the developer.
  - (3) The gravel shall be spread and compacted in layers not exceeding six inches in depth compacted measurement. The gravel shall be compacted to the density specified in § 401 of the Standard Specifications of the Massachusetts Department of Public Works.
- I. Base. The material used for a base course shall be a processed gravel or broken stone that meets with the approval of the Town Engineer. This material shall conform to AASHTO Soil Classification subgroup A-1-a or A-2-4 and shall have a group index of zero, a maximum plasticity index of three and a maximum liquid limit of 25. The gravel shall conform to the gradation requirements of § M 1.03.1 of the Standard Specifications of the Massachusetts Department of Public Works with a maximum size aggregate of two inches. The crushed stone shall conform to the gradation requirements of § M 2.01.1 of the Standard Specifications of the Massachusetts Department of Public Works and shall be bound with approved sand or stone screenings. The cost of any soil tests needed to determine the suitability of a material for use as a base course shall be borne by the developer. A tack coat of bitumen at the rate of 0.05 to zero and 0.10 gallons per square yard shall be applied to the base course of pavement all as determined by the City Engineer. Material and placement shall be as approved. The tack coat shall be only applied to the extent that it can be covered with the surface course within one day **[Amended 3-21-1991]**
- J. Finish course. The material used for the roadway finish course shall be Class I bituminous concrete Type I-1 applied in two courses. The material and work shall conform to § 460 of the Standard Specifications of the Massachusetts Department of Public Works and shall meet with the approval of the Town Engineer. The top or wearing course of the bituminous concrete

shall not be applied until one winter season has passed since the completion of all underground work such as water mains, sewers, drains and all other utilities. The construction of bituminous concrete pavement shall terminate on November 15 and shall not be resumed prior to April 1 unless specifically allowed, in writing, by the Town Engineer. No paving shall be done when the air temperature in the shade is 40° F. or less nor where the material on which the pavement is to be placed contains frost.

- K. Roadway pavement design. Using soil information obtained as required in § 159-7C(8), a pavement design shall be prepared utilizing California bearing ratio values or equivalent values obtained for the subgrade. This will normally be required in clay, loam, peat or silt subgrade materials or as otherwise required by the Town Engineer. The design shall consider and employ, as needed, increased thickness of the gravel subbase, use of geotextile fabric and/or plastic grids, use of subdrains and other measures necessary. (See also Subsections C and E.) This design shall be included in the definitive plans submitted for review by the Planning Board. See Table 5.1 *Editor's Note: Table 5.1 is included at the end of this chapter.* for minimum thickness of the gravel base, subbase and pavement.
- L. Bituminous concrete berms shall be installed on both sides of each roadway, except at intersections, using bituminous concrete Type I-1 with asbestos fibers and an approved berm forming machine. All berms shall have a minimum reveal of seven inches and shall be installed on a bituminous concrete base. At driveways, all berms shall be installed so as to return to the sidewalk. At intersections, granite curbing shall be installed along the arc of the curves. The granite curbing shall have a seven-inch reveal and a width at the top of six inches. The curbing shall be set by a method approved by the Town Engineer. **[Amended 4-5-1990]**

#### **§ 159-20. Sanitary sewers.**

- A. Sanitary sewer mains and laterals shall be polyvinyl chloride pipe conforming to ASTM D 3034-SDR 35. The minimum size for sewer mains shall be eight inches while the minimum size of sewer laterals shall be four inches.
- B. All sanitary sewers, sewer force mains and sewer laterals shall be installed in first-class bedding and in accordance with the Department of Public Works Specifications. Sewers shall be installed to the line and grade indicated on the plans.
- C. Only precast concrete manholes of a design approved by the Town Engineer shall be installed on a sanitary sewer main. For the most part sanitary sewer manholes shall be installed no further than 300 feet apart and the sewer shall be laid in a straight line between manholes.
- D. Before any sanitary sewer will be accepted by the Board, it must pass an infiltration or exfiltration test, at the discretion of the Town Engineer, made in accordance with the Department of Public Works Specifications. Said test will be made at the developer's expense and shall be made under the direction of the Town Engineer.
- E. No groundwater or surface water shall be discharged into the sanitary sewer. No storm drain, foundation or cellar drain or roof leader may be connected to a sanitary sewer or sewer lateral.
- F. Where rock is encountered, it shall be removed to a depth of one foot below the flowline of the sewer and the pipe laid in a properly compacted granular material approved by the Town Engineer.
- G. Only granular material approved by the Town Engineer shall be used as backfill in any trench excavation.

#### **§ 159-21. Drainage.**

- A. Storm drains shall be reinforced concrete pipe conforming to ASTM C-76, Class 3 minimum, polyvinyl chloride pipe conforming to ASTM D3034, SDR35 or polyvinyl chloride ASTM F-794. Bedding for various types of storm drains shall be as approved by the Engineer.
- B. All storm drains, including catch basin leaders and culverts, shall be installed in first-class bedding. All work and materials shall be in accordance with the Department of Public Works Specifications.
- C. Precast concrete or concrete block manholes of a design approved by the Town Engineer shall be used on storm drains. In general the distance between manholes shall not be greater than 300 feet.
- D. Concrete block catch basins in general shall be installed at intervals of 300 feet on both sides of a roadway and at intersections as necessary. The basins shall have a three-flange frame and grates and a granite curb inlet and shall be of design approved by the Town Engineer.
- E. Where rock is encountered, it shall be removed to a depth of one foot below the flowline of the drain and the pipe laid in a properly compacted granular material approved by the Town Engineer.
- F. Only granular material approved by the Town Engineer shall be used as backfill in any trench excavation.
- G. When warranted by local water table conditions, the Planning Board may require that foundation subdrains be installed by the developer.

**§ 159-22. Water.**

- A. All water mains shall be installed using ductile iron pipe conforming to ANSI A21.51, Class 52, with full thickness cement lining conforming to ANSI A21.4.
- B. The hydrants furnished shall meet the town hydrant standards and shall be of a type currently being used by the town.
- C. Grate valves shall be of the New York pattern, Metropolitan-type openings to the left, counterclockwise.
- D. All materials and work shall be in accordance with the specifications of the Department of Public Works. All water mains shall be installed in first-class bedding.
- E. Before any water main will be accepted by the Board, it must pass a pressure and leakage test made in accordance with the Department of Public Works Specifications. Said test will be made at the developer's expense and shall be made under the direction of the Town Engineer. Water mains shall be disinfected and tested for total coliform at the developer's expense. Where the coliform test does not meet state standards, refushing, disinfecting and retesting will be required at the developer's expense.
- F. All water services to the lots shall be installed using Type K copper tubing at least three-fourths (3/4) inch in diameter. The service connections shall have a corporation with shutoff at the main and a curb stop at the street line.
- G. Where rock is encountered, it shall be removed to a depth of one foot below the flowline of the water mains and connections and the pipe laid in a properly compacted granular material approved by the Town Engineer.
- H. Only granular material approved by the Town Engineer shall be used as backfill in any trench excavation.

**§ 159-23. Sidewalks, tree belts and pedestrian and bicycle paths.**

- A. There shall be cement concrete sidewalks constructed on both sides of each street in the subdivision. The width of the sidewalks shall be as specified under the Design Standards for the various classes of streets. The construction must conform to the Town of Agawam Department of Public Works Specifications for Construction of Cement Concrete Sidewalks, April 1989. All materials and construction methods shall be as specified in the Department of Public Works Specifications. **[Amended 4-5-1990]**
- B. There shall be tree belts constructed on both sides of each street in the subdivision. The width of the sidewalk shall be as specified under the Design Standards for the various classes of streets. Loam shall be placed to a minimum depth of six inches. Lime, fertilizer and grass seed shall be applied as required in the specifications of the Department of Public Works. The tree belts shall be reworked and reseeded until a stand of grass satisfactory to the Town Engineer has been established.
- C. Pedestrianways and bicycle paths as shown on the plans shall be eight feet wide and constructed according to this section.

**§ 159-24. Utilities.**

- A. Streetlights shall be installed by the power company at the developer's expense, and the developer shall be responsible for the cost of lighting until the street is accepted by the town. The streetlights and standards shall be of the type adopted by the town as a standard installation. The lighting shall be installed on a street prior to occupancy of any house on that street.
- B. All underground utilities, such as gas mains and electric and telephone lines, including service connections, shall be installed prior to the construction of the roadway surface, base or subbase. All methods used to install these utilities shall be subject to the approval of the Town Engineer. Only granular material approved by the Town Engineer shall be used as backfill in any utility trench.

**§ 159-25. Inspections. [Amended 3-21-1991]**

The developer shall notify the Department of Public Works in writing at least 48 hours in advance of the time when he plans to begin or resume any work on the improvements required in a subdivision. The Department of Public Works shall assign an inspector to inspect the work. The Town of Agawam shall charge the developer at the rate set by the Department of Public Works as specified in § 159-6H(6) for inspection work in the subdivision. No work shall be accepted by the Board which has not been inspected on a daily basis during its progress. Failure of the developer to notify the Department of Public Works or failure to have the work inspected on a daily basis as it progresses shall be cause for the town to require the developer to excavate and reconstruct or do other things that may be required to ensure that the work has been done in a satisfactory manner. The presence of an inspector shall in no way relieve the developer from full responsibility for the required work.

**§ 159-26. Shade trees.**

- A. Before release of the covenant, the developer shall deposit with the Town of Agawam an amount of money sufficient to cover the replacement of two shade trees per lot according to the specifications of the Planning Board.
- B. The developer shall be responsible for providing, planting and maintaining through one full year two living healthy trees or their substitutes per lot. Such trees shall be 2.5 inches minimum in diameter, balled and burlapped and planted in season and subject to direction of the Tree Warden. Types of trees shall be selected from a list available from the Planning

Board which shall include native and hardy species readily available locally.

- C. On each lot two shade trees shall be planted within 20 feet of the street line and located so as not to conflict with underground utilities and sight distances. On places at the discretion of the Tree Warden, shade trees may be planted on the tree belt within the street right-of-way.

**§ 159-27. Clearing and grading.**

To prevent wind and water erosion, the following measures must be employed on all sites:

- A. Regions of the site must be developed in separate increments so that the disturbed area is kept to a minimum. At no time is the entire area to be disturbed.
- B. Natural vegetation shall be retained and protected whenever possible.
- C. All disturbed area shall be stabilized with a temporary vegetative cover if to be left exposed for greater than one month, with the exception of roadways which are to be treated with appropriate measures at the end of each workday.
- D. All stockpiled soils shall be stabilized with temporary vegetative cover.

**§ 159-28. Loam or topsoil.**

No loam or topsoil shall be removed from the property until the subdivision is complete, and then only with the permission of the Board of Appeals as specified in § 180-8G of Chapter 180, Zoning.

**§ 159-29. Permits.**

Upon receipt of permits from the Inspector of Buildings to construct dwellings, etc., each lot line must be clearly marked and lot identified by lot and street number before any inspections are made. Compliance with the Conservation Commission's regulations must be posted, if applicable.

**§ 159-30. Excavations.**

All excavations for pipe, etc. across streets and to dwellings shall be properly protected and lighted at proper times, according to recommendations of the Department of Public Works and the Chief of Police. These excavations shall be properly backfilled and well compacted as soon after installation of pipe, etc. as is possible.

**§ 159-31. Protection of natural features.**

- A. In any area outside the road right-of-way and building site (house plus 15 feet outside walls and leach field area), no tree over eight inches in diameter measured five feet above the ground shall be removed without the consent of the Tree Warden or his agent. Due regard shall be made for life expectancy and health of the vegetation and the final proposed grading. The developer shall notify the Tree Warden at least one week prior to any clearing of the site. No evergreen tree or shrub shall be removed without consent of the Tree Warden or his agent. Limits of work may be delineated on the definitive plan, in which case no work shall be performed, including clearing, outside those limits, but work within may proceed without further consent.
- B. All natural features to be preserved shall be suitably protected during construction.
- C. A buffer strip not to exceed 30 feet may be required when warranted by drainage or other

local conditions. A buffer strip shall be considered part of the lot on which it is located, but shall be protected through a permanent restrictive covenant. The covenant shall be recorded with the definitive plan and proof of recording shall be submitted to the Planning Board. The covenant shall read: "This lot contains a permanently protected buffer strip." No cutting of trees, clearing of brush, digging, filling in with soil or other debris or construction of buildings or other structures shall be allowed in the buffer strip.

**§ 159-32. Cleaning up.**

Before final inspection, the total area shall be cleared of debris, both natural and construction materials generated by the construction.

**§ 159-33. Monuments.**

All proposed monuments shown on the definitive plan shall be installed and their installation shall be certified by the developer's engineer or surveyor. Monuments shall be of stone or cast concrete, four inches square and three feet long, set flush with the finished grade. Three-fourths-inch to one-inch steel pipes or gun barrels three feet long may be used at lot corners. Where street monuments and lot corners occupy the same point, stone or concrete monuments shall be used.

**§ 159-34. Street acceptance.**

Upon completion of any subdivision or any street therein and prior to the final release of a bond or covenant, the developer shall submit to the Board a final plan of each street layout, including lot frontage, bounds and pins which have been set and ties to intersecting street layouts. This plan shall be used as a street acceptance plan and shall be drawn in accordance with standards set by the Town Engineer. The plan shall be prepared by a registered professional land surveyor and shall be suitable for recording in the Hampden County Registry of Deeds. Accompanying this plan, the developer shall supply the Board with a document releasing the town from any damages which he may incur by the acceptance of the street by the town.

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**ARTICLE VI Administration**

**§ 159-35. Waiver of regulations.**

Strict compliance with the requirements of these rules and regulations may be waived when, in the judgment of the Board, such action is in the public interest and not inconsistent with the Subdivision Control Law. *Editor's Note: See MGL C. 41, § 81K through 81GG, inclusive.*

**§ 159-36. Matters not covered by regulations.**

For matters not covered by these rules and regulations, reference is made to MGL C. 41, § 81-K to 81-GG, inclusive, and the Federal Environmental Protection Act and the Massachusetts Protection Act.

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**ARTICLE VII Floodplains**

**§ 159-37. Rules and regulations.**

The Planning Board herewith stipulates rules and regulations for the subdivision and/or development of land which lies within the floodplain as described in the Town Ordinance. *Editor's Note: See Art. XII of Ch. 180, Zoning.*

**§ 159-38. Authority; priority of regulations.**

Authority for these regulations is derived from the commitment of the Town of Agawam to the Federal Insurance Administrator under the Federal Flood Insurance Act. These rules and regulations shall take priority over any conflicting regulations of the Planning Board.

- A. The finished grade of land at all sides of any major building shall be set at a minimum grade above flood level as determined by the Planning Board from historic flood data.
- B. The total area may not be removed from the floodplain or graded in such a way as to cause additional hazard to the remainder of the floodplain areas. No more than one-third (1/3) of the total area may be regraded or filled.
- C. More than one exit from the total area shall be provided for emergency evacuations by clearing and suitable grading and related work, and no obstructions to vehicular passage shall be allowed within the exit route. This exit may not require paving or other surfacing. The developer shall so note any deeds concerning obstructions to passage.
- D. Utilities. Town sewer systems shall be constructed to the specifications of the Department of Public Works and Board of Health to ensure safety from flooding. All water lines, gas and electric lines shall be constructed with suitable area master shutoff valves. All aboveground utility control boxes shall be constructed to avoid flood damage and to elevations as determined by the Planning Board. Electric and telephone lines shall be underground and all access to underground utilities shall be constructed to the specifications of the Department of Public Works. Any drainage pipes opening into the floodway (river or stream) shall be constructed to the specifications of the Department of Public Works to prevent flooding of the system.
- E. All plans reviewed by this Board which lie in the floodplain shall be stamped or legally noted so that landowners and future occupants shall be aware of their responsibilities. The notation shall be endorsed on Form A, Subdivision Control Not Required, as well as Form B, Subdivision Control, preliminary and definitive plans. *Editor's Note: Forms A and B are on file in the Planning Department offices.*