

## SUBDIVISION REGULATIONS

Of the

TOWN OF BENNINGTON, N.H.

### SECTION I AUTHORITY

Pursuant to the authority vested in the Bennington Planning Board by the voters of the Town of Bennington at the Town Meeting of March 12, 1987, and in accordance with the provisions of Chapter 674-677, New Hampshire Revised Statutes Annotated, the Bennington Planning Board adopts the following regulations governing the subdivision of land in the Town of Bennington, New Hampshire.

### SECTION II GENERAL PROVISIONS

2:01 Title: These regulations shall hereafter be known, cited and referred to as the Subdivision Regulations of the Town of Bennington.

2:02 Purpose: The purpose of these regulations is to protect the health, safety, convenience and welfare of the inhabitants of the Town of Bennington and to preserve the natural scenic beauty and rural character of its residential areas, and to promote orderly, planned growth as outlined in the Bennington Master Plan.

### SECTION III DEFINITIONS

3:01 Abutter: Shall mean any person who owns land within 200 feet of the boundaries of the land under consideration; under RSA 672:3, the term abutter shall include any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land-use board. For the purpose of receiving testimony only and not for the purpose of notification, the term abutter shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration.

3:02 Approval: Shall mean recognition by the Planning Board, certified by written endorsement on the plat and in the minutes of the meeting of the Planning Board at which such action is taken, that the plat meets the requirements of these regulations and satisfies, in the judgment of the Planning Board, all criteria of good planning and design.

3:03 Board: Shall mean the Planning Board of the Town of Bennington.

3:04 Buffer Strip: A protection offered by vegetation or some other means to provide visual and noise barriers; to serve as a protective or safety barrier; and to reduce air pollution, dust and litter.

3:05 Conditional Approval: In accordance with RSA 676-4 as amended, conditional or tentative approval shall mean an expression, in writing, but not on the plat, by the Planning Board that the final plat appears to satisfy all requirements established herein for final approval before improvements and installations have been constructed. Conditional approval does not constitute, nor should it be construed as, either implying or granting final approval. It does, however, establish a presumption of approval if improvements are made and completed in accordance with the conditional or tentative approval of these regulations and as provided for in paragraph 4:12 or 4:13.

3:06 Final Plat: Shall mean the final drawing or drawings on which the subdivider's plan of subdivision is indicated, prepared as required by these regulations.

3:07 Impact Study: The economic impact study statement shall show the effect of the proposal on both the public and private sectors of the town economy. It shall address both revenues and major capital costs. The environmental impact statement shall show the effect of the proposal on the natural resources of the town and shall include the effect on streams, pond, wetlands, ground water, farm land, forests, top soil and air.

3:08 Master Plan: Shall mean the comprehensive plan of development for the Town of Bennington.

3:09 Preliminary Layout: Shall mean a discussion meeting beyond the inquiry stage of a proposed subdivision for the purpose of indicating the general development concepts, and which may be submitted to the Board prior to preparation of the final plat. The Preliminary layout is not a "Plat" as referenced in New Hampshire 376:4. It is intended to provide assistance to a subdivider, but not consideration, in preparation of an application.

3:10 Private Road: Shall mean a road that is built to town road specifications that remains under private use and ownership, and is so recorded in deeds on abutting lots.

3:11 Re-subdivision: Shall mean a change in a map of an approved or recorded subdivision or re-subdivision if such change (a) affects any street layout shown on such map, (b) affects any area reserved thereon for public use, or (c) diminishes the size of any lot shown thereon to have been conveyed after the approval or recording of such map.

3:12 Right-of-way: Shall mean a strip of land over which is built a road or land over which a legal right of passage has been granted by the owner. The right-of-way is to be indicated on map showing width and location.

3:13 Street: Shall mean, relate to and include a street, avenue, boulevard, road, lane, alley, viaduct, highway, freeway, public street, and other ways existing as state, county or town roadways, or a street shown upon a plat approved in accordance with these regulations. The word "street" shall include the entire right-of-way. An "approved street" is defined as a Class I, II, III, IV or V highway. It does not include a Class VI highway or street. These classifications are further defined in Chapter 229.5 of the RSA's.

3:14 Subdivider: Shall mean the owner of record of the land to be subdivided including any subsequent owner of record making any subdivision of such land or any part thereof, or the agent of any such owner or owners.

3:15 Subdivision: Shall mean the division of a lot, tract, or parcel of land into two or more lots, plats, sites, or other subdivisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

**3:16 *Subdivision, Major: Means a subdivision of four (4) or more lots, or one which involves the creation of new streets and/or utilities.***

**3:17 Subdivision, Minor:** *Means a subdivision of land into not more than three (3) lots for building development purposes, with no potential allowance for re-subdivision on an existing street; or one which does not involve the creation of new streets and/or utilities.*

3:18 Subdivision, Technical: For the purpose of administration of these regulations only, shall mean a subdivision of land into two lots or sites for the purpose of conveying one such lot or site directly to an abutting landowner. The parcel to be conveyed to an abutter does not constitute a separate building lot. However, said parcel may be used for building development in conjunction with contiguous land owned by the abutter. Such a subdivision shall not result in the creation of a building lot which does not meet the minimum frontage and area requirements of the Land Use Ordinance or other town regulations. The Board shall notify the Boards of Selectmen and Adjustment of all such technical subdivisions and shall indicate which parcel has been transferred to an abutter and shall certify that the remaining lot meets the requirements of ordinances of the town. Notification of abutters is required.

3:19 Lot Line Adjustments, Boundary Agreements: Adjustments to the boundary between adjoining properties. These may or may not involve exchange of property. Notification of abutters is required.

3:20 Wetland: Shall mean those areas identified and delineated as poorly drained or very poorly drained soils by the USDA Soil Conservation Service.

#### SECTION IV GENERAL REQUIREMENTS:

4:00 Impact Study: An environmental and economic impact statement may be required in the judgment of the Planning Board and is the responsibility of the subdivider (or developer), the costs of which he must bear. This must be presented to the Planning Board for review and will be submitted for technical study if necessary.

4:01 Compliance: No subdivision of land shall be made, no land in any subdivision shall be sold or offered for sale or lease, no construction, no land clearing, no building development shall begin, no street or utility construction shall be started, and no permit for the erection of any building shall be granted before a subdivision has been approved by the Board, other required permits issued, and the plat filed in the Office of the Register of Deeds of Hillsborough County.

4:02 Character of Land: Land to be subdivided for development shall be of such character that it can be used for building purposes without danger to health and safety. Proper provision shall be made for water supply, surface drainage and sanitary sewage, and in areas contiguous to brooks, rivers, or other bodies of water subject to flooding, proper provision shall be made for protective flood control measures. Proposed roads shall be planned with regard to existing roads and existing or proposed principal thoroughfares, especially as to safe intersections and shall be so arranged and of such width as to provide an adequate and convenient system for present and future traffic needs. In places deemed proper by the Board, open spaces for parks and playgrounds shall be shown on the subdivision plat. Adequate access to properties for fire fighting apparatus shall be provided. The number of lots proposed for any area shall not be greater than the number deemed by the Board to be the maximum number which can be laid out without substantially impairing the health, safety or welfare of inhabitants, with respect to potable water, surface water drainage, sewage, flooding and traffic.

A. *Land or properties divided by a Class VI or better street shall be considered as separate parcels for the purposes of these regulations.*

B. Where property proposed to be divided crosses a town line, the Chairman of the Planning Board

and the Board of Selectmen of the adjoining town(s) shall be considered as abutters and so notified regarding any subdivision.

- C. Where a single property ownership is subdivided by a street or streets, abutters to each of the so subdivided properties shall be considered as abutters to the single property ownership and shall be notified in the event of a proposed subdivision of any one of the properties to be subdivided.
- D. The Division Engineer of the area Office of the New Hampshire Department of Public Works and Highways shall be included in the mailed notice to abutters when access to any state-maintained road is a part of a subdivision application whether it be development of a new road or access for driveways or other ways. The same notification shall be sent to the Bennington road agent and Board of Selectmen when access affects town roads.
- E. Care must be taken to control soil erosion and to prevent the resulting sedimentation from occurring in subdivision areas by requiring proper provision for water disposal and protection of soil surfaces during and after construction, in order to promote the public health, safety, convenience, and general welfare of the community. A subdivision erosion and Sediment Control Plan shall be submitted according to the requirements outlined in Appendix C.
- F. The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which application is required by federal or state law, including Section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 U.S.C. 1334.

The responsible person shall require that all subdivision proposals and other proposed new developments greater than 50 lots or 5 acres, whichever is lesser, include within such proposals base flood elevation data.

Sufficient evidence (construction drawings, grading, land treatment plans) shall be submitted so as to allow determination that: 1) all such proposals are consistent with the need to minimize flood damage; 2) all public utilities and facilities such as sewer, gas, electric and water systems are located and constructed to minimize or eliminate flood damage; and 3) adequate drainage is provided so as to reduce exposure to flood hazards.

4:03 Premature or Scattered: The Board shall not approve a scattered or premature subdivision of land or subdivision which would involve danger or injury to health, safety, or property, nor will the Board approve a subdivision that would necessitate an excessive expenditure of public funds for the supply of municipal services or facilities. As a guideline for consideration of what may constitute a premature or scattered subdivision, the Board shall consider Appendix E, Premature Subdivision, Pages 107-116 in Planning and Development Techniques, Options for Managing Community Growth in New Hampshire, published by the Office of State Planning 1979, copy at town office.

4:04 Unsuitable Lands: Land subject to the following conditions shall not be subdivided for building purposes unless the unsuitable conditions are remedied to the satisfaction of the Board. Said plans must also be approved by any regulatory agencies having jurisdiction.

- A. Land prone to flooding.
- B. Land unsuitable for sanitary disposal by septic tank and leaching fields as defined by the New Hampshire Water Supply and Pollution Control Commission in their publication "Guide for Design, Operation and Maintenance of Small Sewage Disposal Systems."

4:05 Plat Identification and Lot Layout:

- A. A subdivision plat shall be identified, in addition to the name given it by the subdivider, by its tax map number, such number to be obtained from the Board of Assessors, Board of Selectmen or Planning Board. Each lot in the subdivision shall be so identified as a further division of the lot identified on the tax map and lots in the subdivision shall be sequentially numbered so that they will coincide with numbers on the annual tax map updates.
- B. The layout of lots shall conform to the requirements of the Town of Bennington driveway access regulation in force at the time of construction. Corner lots shall have extra width to permit a setback on each street. Side lot lines shall generally be at right angles to straight street lines or radial to curved street lines.
- C. In subdividing parcels containing existing dwellings or other habitations, the applicant must show the location of existing septic tanks and leach fields for each dwelling or other habitants. A letter must be submitted to the Planning Board stating that any such existing septic system is functioning properly.
- D. All buildings or structures shall meet the minimum requirements of the Zoning Ordinance.

4:06 Non-buildable Lots:

- A. Land that is proposed to be divided into non-buildable lots, or lots in a proposed subdivision that are not to be used for building, may be considered and set aside as such provided that they will substantially serve the public convenience and welfare and not substantially or permanently injure adjoining property.
- B. Non-building lots shall be clearly identified as such on the final plat submitted to the Board and such restriction shall further be clearly included as a covenant to any deed. The applicant shall provide the Planning Board with a copy of the deed.
- C. The Board of Assessors will be notified of all lots that are approved as non-buildable.

4:07 Reserved Strip: No privately-owned reserved strip, except an open space area, shall be permitted which controls access to any part of a subdivision or to any other parcel of land from any street, or from any land dedicated to public use, or which may be so dedicated.

4:08 Preservation of Natural Features: Due regard shall be given to the preservation, protection and enhancement of natural features, and other assets of a community nature. The Board may require documentation of plans to demonstrate the means of protection for such assets--as trees, scenic points, brooks, streams, rock out-cropping, water bodies, other natural resources and historic landmarks.

4:09 Public Open Spaces: Upon consideration of the particular type of development proposed and determination of the needs, created by such a development, the Board may require the reservation of land for open space, park or playground areas, such area(s) not to be more than 10% of the total area of a subdivision.

4:10 Sewage Disposal:

- A. Safe disposal of all human and domestic wastes is necessary to protect the health of the individual family and the community and to prevent the occurrences of nuisances. To accomplish

satisfactory results, such wastes must be disposed of so that:

1. They will not contaminate any drinking water supply.
2. They will not give rise to a public health hazard by being accessible to insects, rodents, or other possible carriers which may come into contact with food or drinking water.
3. They will not give rise to a public health hazard by being accessible to children.
4. They will not violate laws or regulations governing water pollution or sewage disposal.
5. They will not pollute or contaminate the waters of any bathing beach or stream used for public or domestic water supply purposes or for recreational purposes.
6. They will not give rise to a nuisance due to odor or unsightly appearance.

B. General:

1. Where a subdivision of land creates a lot or site that will not meet the minimum standards and design requirements imposed by the State of New Hampshire Water Supply and Pollution Control Commission, municipal regulations, and the requirements listed below, it shall not be approved by the Board. All data submitted to and approved by the N.H.W.S.P.C.C. shall be submitted to the Board.
2. All components of the septic system must meet the minimum setback requirements from property boundaries required for all structures, as described in Appendix B.
3. The use of leach field beds built above natural ground level shall be discouraged for subdivisions containing lots of less than 3 acres, or where lot frontages are less than 300 feet.

4:11 Class VI Highways or Streets: Approval of a subdivision located on or whose access is from a Class VI highway may be granted by the Board only when it deems that the subdivision is not scattered or premature and when the subdivider rebuilds a Class VI highway to meet town standards for Class V highways. The applicant may be required in appropriate circumstances to bear all of the costs of such upgrading as determined by the needs created by and the special benefits conferred upon the subdivision whether immediate or future.

4:12 Performance Bond:

- A. As provided herein, the Board of Selectmen may accept a bond upon recommendation of the Planning Board in an amount and with surety and conditions satisfactory to it, providing for and securing to the town the actual construction and installation of such improvement within a period specified by the Planning Board and expressed in the surety or performance bond.
- B. A subdivision filed with the Board shall not be approved until the subdivider shall have filed with the Board, an estimate of costs of streets, public improvements, drainage structures, and other utilities, together with maps, plans and supporting data, accompanied by either:
  1. A surety bond, issued by a surety company authorized to do business in New Hampshire to be filed with the Board of Selectmen in form and to be deposited with it, or
  2. Cash, or savings bank book properly endorsed to the Town of Bennington in an amount to be determined by the Board of Selectmen and to be deposited with it.
- C. In the case of electric lines or other utilities to be installed by a public utility corporation or a municipal department, a statement shall be received in writing from such public utility, corporation or municipal department that the work will be done within a reasonable time and without expense to the town.

- D. Each approval of a plat shall contain a time limit within which streets and public improvements shall be completed, not to exceed three years which includes a period of one year for wintering over. Failure to comply shall result in forfeiture of the performance bond.
- E. Upon completion of improvements and approval by the town agent, surety covering maintenance of streets and improvements for a period of two years from completion may be required in an amount based on the cost of such improvements, as approved by the Board of Selectmen.
- F. The performance guaranty shall not be released until the Board of Selectmen has certified completion of the public utilities and improvements in substantial accordance with the requirements, and deeds covering land to be used for public purposes; easements and rights-of-way over property to remain in private ownership, and rights to drain onto or across private property are submitted in a form satisfactory to the town attorney. All recording fees shall be borne by the subdivider.

4:13 Assessment or Other Method: In lieu of a performance guarantee, the Board may require an assessment or other method whereby the town is put in an assured position to do said work and make such alteration, construction or improvement at the cost of the owner(s) of the property within the subdivision.

4:14 Acceptance of Dedication Offers: Acceptance of formal offers of dedication of streets, public areas, easements, and parks shall be by ordinance of the town. The approval by the Board of a subdivision plat shall not be deemed to constitute or imply the acceptance by the Board of Selectmen or the town of any streets, rights of way, easements or park shown on said plat. The Planning Board may require said plat to be endorsed with appropriate notes to this effect.

The Board requires a written acknowledgment of the subdivider's responsibility for maintenance of easement areas, and the assumption by him of liability for injuries and damages that may occur on any land to be dedicated for public use, until such land has been legally accepted by the town.

4:15 Meetings: All Planning Board meetings are open to the public in accordance with RSA Chapter 91-A, and public notice of all regularly scheduled meetings shall be posted in at least two appropriate places in town in accordance with state law and the Board's bylaws. Abutters' hearings are described in paragraph 8:01.

**SECTION V PROCEDURE:**

5:00 Purposes: These regulations are designed to assist in the preparation of a subdivision application and to facilitate its presentation and consideration at a hearing before the Board and abutters within the time constraints imposed by state statutes.

5:01 Procedure for a subdivision: These regulations provide for three steps, only one of which is mandatory, in obtaining a final action by the Board on a subdivision. The steps are:

- A. Inquiry
- B. Preliminary Layout
- C. Final plat submission (mandatory)

5:02 Procedure for a *Major Subdivision, Minor Subdivision, Technical Subdivision, Lot Line*

Adjustment or Boundary Agreement: To apply for consideration of a *Major Subdivision, Minor Subdivision*, Technical Subdivision, Lot Line Adjustment, or a Boundary Agreement, the applicant shall fill out a subdivision application, identify it clearly at the top of the application form as a **MAJOR SUBDIVISION, MINOR SUBDIVISION, TECHNICAL SUBDIVISION, BOUNDARY AGREEMENT, or LOT LINE ADJUSTMENT**, and comply with Section VIII *of these regulations*.

**5:03 Expedited Review:**

- A. *The Planning Board may allow for an expedited review of applications for minor subdivisions, technical subdivisions, lot line adjustments, or boundary agreements as defined in Section III of these regulations.*
- B. *The Completed Application may be submitted, accepted and voted on at the same meeting, provided the public notice so indicates.*
- C. *The Board may waive certain plat requirements for lot line adjustments, minor and technical subdivisions, and boundary agreements.*

**SECTION VI INQUIRY:**

6:00 Purpose and Procedure: A subdivider may meet with the Board at a regular meeting to discuss a proposed subdivision and the requirements of an application for a subdivision. Such informal meeting is not mandatory and shall be considered as an inquiry procedure, and shall not constitute a formal or legal acceptance of a plat by the Board, even though the subdivider may have available either a layout or sketch of the proposed subdivision or other documents that may become part of a formal application at a later date.

**SECTION VII PRELIMINARY LAYOUT:**

7:00 Purpose and Procedure: This step remains a part of an informal subdivision process to discuss a concept plan and to set forth a detailed list of items that are required in a formal application, as provided in these regulations. This step may be taken at any regular meeting of the Board.

7:01 Plat Requirements: The Board requires contour lines and soils information on a copy of the plat. Soils overlays should be done by the Hillsborough County Conservation District, Milford, New Hampshire, for all subdivisions at the expense of the subdivider.

**SECTION VIII FINAL PLAT SUBMISSION - APPLICATION:**

8:00 Purpose: Two copies of the plat and supporting drawings and documents for a proposed subdivision constitute the formal and complete submission for a subdivision proposal. The two copies of the plat, drawings and documents must be in the office of the Land Use Secretary for at least 15 days before the public hearing is scheduled so that they can be reviewed for completeness by the Board's designee. Expense for such review will be borne by the applicant.

8:01 Procedure:

- A. The formal application for a subdivision proposal shall contain, in accordance with Appendix A,

the final plat drawings and necessary supporting papers. The application shall include:

1. Application form, signed by all property owners.
  2. The final plat, a reproducible Mylar of size acceptable to the state of New Hampshire: 8½" x 11", 11" x 17", 17" x 22", or 22" x 34", containing all information listed in Appendix A that is required to be recorded.
  3. Additional "supplemental plans," at the same or larger scale than the Mylar, containing information listed in Appendix A that is not on the plat, and not required to be recorded, if applicable. This may include topography information, soils information, and reserved septic system area information.
  4. Other supporting documents, if applicable, such as percolation test data.
  5. List of abutters and all other parties to be notified in accordance with RSA 676:4 and other state law.
  6. Utility and road plans and profile drawings, if applicable. ***All utilities to the subdivision(s) shall be installed underground in accordance with all applicable codes and utility company requirements.***
  7. A subdivision Erosion and Sediment Control Plan according to the requirements outlined in Appendix C, if applicable.
  8. A review for completeness by the Board's designee.
  9. Payment for cost of notice (per RSA 676:4d) and application fees.
- B. Additional documentation which must be supplied prior to approval of a subdivision proposal shall include, if applicable:
1. All sewage and septage system approvals required for subdivision by the state or the town.
  2. All driveway location approvals or driveway permits.
  3. Shared driveway agreements.
  4. Performance bonds for all road and other work required by not yet completed, including proposed streets, abutting streets, off-site street improvements, and non-street work.
  5. Homeowner association agreements.
  6. Payment of all recording fees and all other fees not yet paid.
  7. A letter from the Fire Chief that there is adequate access and water supply (such as sprinklers, cisterns, fire ponds, other local water sources) for fire protection.
- C. The applicant must provide the information requested for every item on the checklist, or specifically request a waiver for a specific item and its related section of the Subdivision Regulations.
1. Each request for waiver must state which specific section the request asks to be waived and give a reason for requesting the waiver.
  2. Requests for waiver should be discussed with the Board's designated representative during the application review. The designated representative may make a recommendation to the Board on an applicant's waiver request for waiver.
  3. The Board shall vote to grant or deny the applicant's request for a waiver from a specific section of the Subdivision Regulations and the Board's decision shall be recorded in the minutes of the meeting.
- D. The Board shall place subdivision proposals on its agenda and notify other parties of public hearings in accordance with RSA 676:4 and other applicable state laws and requirements.

1. Abutters and all other parties required to be notified shall be notified by certified or registered mail (return receipt requested) not less than 10 days before the hearing date, at the expense of the applicant. The applicant is responsible for the accuracy and completeness of the list of abutters and all other parties required to be notified.
  2. The Board shall place a public notice of time and place of such public hearings in at least two appropriate places in town not less than 10 days before the hearing date. (Ten calendar days referred to in this Section includes Saturdays, Sundays and holidays but does not include the day of posting, nor the day of the hearing, so it is 11 days in advance.)
  3. A copy of the proposed subdivision shall be on file at the Board office for public inspection at least 7 days before the hearing.
- E. The Board shall consider the application, accept the application when appropriate, and make its decisions in accordance with the timetables and other requirements of RSA 676:4 and other state laws.
1. After an application has been accepted, statutory timetables apply, and when the Board requests additional information from an applicant, deadlines for providing the information will be given.
  2. Applicants who fail to provide requested additional information within these deadlines will either be asked to agree to deadline extensions or will be denied on the grounds of failure to provide necessary information of the application in a timely manner.
  3. The Board may apply to the Board of Selectmen for extensions in accordance with state law.
- F. *Site inspection of the property.***
- G. No action shall be taken on any application unless either the applicant is present or the Board has a written statement from the applicant authorizing other persons to represent him.
- H. No action shall be taken on and no consideration shall be given to any subdivision at any meeting of the Board at which there is less than a quorum of Board members present and voting, such quorum to be three voting members of a five member Board.
- I. When the Board finds it necessary in order to determine the proper response to an application, the Board may require on-site inspections. ***Furthermore, if the Board requires additional peer reviews, including but not limited to civil engineers, consultants, other planning commissions, etc., those costs shall be borne by the applicant.***
- J. If the Board conditionally approves any application in accordance with RSA 676:4, I(i) and other state laws, such conditional approvals shall be valid only if all conditions are met by 90 days from the date of the conditional approval, unless a longer period is stated in the conditional approval or unless subsequently extended by the Board. If the time period allowed by the Board for meeting the conditions lapses without the conditions being met, the conditional approval is automatically revoked and the applicant must reapply.
- K. In the case of disapproval of any application submitted to the Board, the grounds for such disapproval shall be adequately stated in the minutes of the Board and in writing to the applicant.
- L. It is the applicant's responsibility to provide a plat that is recordable by the Register of Deeds of Hillsborough County. Approved final plats shall be sent for recording to the Register of Deeds within 10 days of final approval, or, for a conditional approval, within 10 days of all conditions

being met. No plat shall be sent to the Register of Deeds more than 90 days after approval by the Board, unless this deadline is extended by the Board. Approved final plats must be filed prior to sale or transfer of land within the subdivision, as provided in RSA 676:16 and other state laws.

- M. Every plat approved by the Board and filed with the Register of Deeds of Hillsborough County shall be exempt from all subsequent changes in these subdivision regulations and zoning ordinances of the Town of Bennington for four years from date of approval provided active and substantial development or building shall have commenced on the site within twelve months of such date of approval, and as further provided in RSA 674:39.
- N. After a subdivision has been approved, any subsequent re-subdivision of property will require a new application, a new submission, and a new public hearing.

8:02 Fees and Expenses: Pursuant to RSA 676-4 I (g) it shall be the responsibility of the developer, if the Board deems it necessary, to pay reasonable fees for the review of documents, the cost of special investigative studies, Board administration fees, and other matters which may be required by particular applications.

- A. An application fee shall accompany each proposed subdivision application in such amounts as the Board in its discretion may determine from time to time.

#### SECTION IX ADMINISTRATION:

9:01 Interpretation: The interpretation of these regulations shall be the sole province of the Board and the Board may seek legal advice and counsel as it deems necessary.

9:02 Enforcement: These regulations shall be enforced by the Board of selectmen.

9:03 Other Regulations: Where these regulations conflict with other local ordinances, the more stringent requirement shall apply.

9:04 Penalty for Non-compliance: Any owner, or agent of the owner, of any land within a subdivision, who transfers or sells any land before a final plat has been approved and filed by the Board shall forfeit and pay a penalty of \$500 for each lot or parcel so transferred or sold, in accordance with RSA 676:16.

9:05 Appeals: Any person aggrieved by any decision of the Board concerning a plat or subdivision or building permit may, within thirty (30) days of the Board's decision, appeal such decision to the Superior Court as provided in RSA 677:15.

9:06 Validity: If any section, subsection, or phrase of these subdivision regulations is found for any reason to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of these regulations.

9:07 Amendment: These regulations may be amended, changed, altered, added to or rescinded from time to time whenever this action is deemed necessary or advisable by the Board. A public hearing, to be held in accordance with RSA 675:6-7 and Chapter 91-A, on the proposed change, and the concurring vote of the Board is required before any alterations are made. A statement signed by the Chairman or Secretary of the Board, indicating any amendments thus authorized from such regulations as were previously filed, shall be transmitted to the Register of Deeds of Hillsborough County, to the Town Clerk of Bennington, and to the Board of Selectmen, by the Chairman or Secretary of the Board.

9:08 Effective Date: The effective date of this amendment, which constitutes a complete revision of the original Bennington Subdivision Regulations is \_\_\_\_\_.

#### SECTION X REGIONAL IMPACTS:

10:00 Purpose: The Planning Board shall review each application that comes before the Board for potential regional impacts according to the criteria in 10:02. If there are questions as to whether or not potential exists for regional impacts, the Board shall treat the application as if it would have regional impacts.

10:01 Procedure: Upon such a finding, the Board shall, within 72 hours by certified mail, furnish the regional planning commission(s) and the affected municipalities with copies of the minutes of the meeting at which the determination was made.

At least 14 days prior to public hearing, the Board shall notify by certified mail the regional planning commission and the affected municipalities of the date, time, and place of the hearing, and of their right to appear as an abutter to offer testimony concerning the development.

Should the Planning Board decide that additional study is needed before the application is voted on, it may request a review of the proposal by outside consultants and, as with any other subdivision review, the costs shall be borne by the applicant.

10:02 Criteria: Impact criteria shall include, but not be limited to the following items. These shall in no way be considered exhaustive, but rather guidelines for the Planning Board to follow in determining developments of regional impact.

- A. Residential development: Proposals for lots or dwellings within one-quarter mile of a town boundary that would increase the existing housing stock of the affected towns by more than 25 percent, or proposals located anywhere in town that would increase the existing housing stock of the town by more than fifty percent.
- B. Commercial development: 75,000 square feet or greater within one-quarter mile of a town boundary, or 150,000 square feet located anywhere in town.
- C. Industrial development: 50,000 square feet or greater within one-quarter mile of a town boundary, or 125,000 square feet located anywhere in town. Any industry that deals in hazardous materials and/or that has the potential for accidents which would require evacuation of a large area.
- D. Other factors to be considered: Traffic impact on a regional road network, as well as on a neighboring local road network. Proximity to groundwater, surface water and wetlands which transcend municipal boundaries. The potential to destroy or disturb a significant or important natural environment or habitat. Emissions such as light, noise, smoke, odors or particles. Necessity for shared public facilities, such as schools, police and fire protection, water or sewage systems and solid waste disposal.

#### SECTION XI. CLUSTER RESIDENTIAL DEVELOPMENT:

The following requirements shall be observed whenever a Cluster Development is proposed, and shall be properly illustrated on the subdivision or development plans. The size, density, and setback requirements for a clustered residential development shall conform to the provisions of Article XII - Cluster Development of the Bennington Zoning Ordinance as amended.

11:00 Streets: access from public ways, internal circulation and parking shall be designed to provide for vehicular and pedestrian safety and convenience, emergency and fire equipment, snow clearance, street maintenance, delivery and collection services. Streets shall be laid out and constructed consistent with local requirements, however, they may remain private ways.

11:01 Drainage: adequate provision shall be made for storm water accumulation and run-off, with particular concern for the effects of any effluent drainage from the site. Erosion resulting from any improvements on the site shall be prevented by landscaping or other means. Sediment and erosion control plans for both during and after construction should be included in the proposal.

11:02 Sewage disposal: adequate provision shall be made for sewage disposal and shall take into consideration soil conditions and potential pollution of surface or ground waters.

11:03 Water supply: A centralized system shall be provided for both ordinary use as well as special fire needs.

11:04 Utilities: all utilities shall be installed underground wherever possible. Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.

11:05 Recreation: Facilities shall be provided consistent with the development proposal.

11:06 Buffering: planting, landscaping, disposition and form of buildings and other improvements, or fencing and screening shall be utilized to integrate the proposed development with the landscape and the character of the neighborhood and any surrounding development.

11:07 Disposition of Building: shall recognize the need for natural light, ventilation, amenity space, privacy, maintenance and fire protection.

11:08 For purposes of this section, the tract or parcel of land involved must be either in single ownership, or the subject of an application filed jointly by the owners of all the property included.

11:09 The developer shall file with the Town at the time of submission of final plans a performance guarantee. This shall be tendered in the form of a faithful performance bond running to the Town and issued by a surety company acceptable to the municipality, or secured by a cash deposit in the name of the Town. The conditions and amount of such performance bond shall be determined by the Planning Board with the advice of various Town departments or agencies concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the street grading, paving, sanitary and storm drainage, landscaping, and utilities or other improvements specified in the final plan, and shall guarantee the satisfactory completion of all specified improvements.

11:10 Common space shall be dedicated prior to approval of the project. Common space shall consist of not less than 50% of the total site, and shall be protected by covenants running with the land and shall be conveyed by the property owners to the Neighborhood Association. Such covenants shall be reviewed and approved by the Planning Board and shall ensure that there be no further subdivision of this land, or buildings constructed upon it which would cause the net residential density to exceed the density permitted in that district at the time of plan approval.

11:11 The common open space (s) shall be shown on the development plan and with appropriate notation on the face thereof to indicate that it:

- A. Shall not be used for future building lots.
- B. A part or all of the common open space may, at the option of the owner, and with approval of the Planning Board, be dedicated for acceptance by the Town for operation as a municipal recreational facility.

11:12 Covenants for mandatory membership in the Neighborhood Association setting forth the owner's rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot or dwelling unit. Specific attention is called to New Hampshire RSA Chapter 356-B entitled "Condominium Act" Cluster housing developments that include Planning Board approved restrictions and/or covenants in the commercial-recreational district, thereby qualifying for a density bonus, shall include a provision in the Neighborhood Association bylaws prohibiting any change or revision to the approved bylaws or covenants without prior approval of the Planning Board. Any violation of this provision shall constitute a violation as contained in Section VIII of these regulations, and subject to the provisions of that section.

11:13 This neighborhood association shall have the responsibility of maintaining the common open space (s) and operation and maintenance of local neighborhood recreational facilities within such open space (s).

11:14 The Neighborhood Association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space (s) and neighborhood recreational facilities.

11:15 The developer or subdivider shall maintain control of such open space (s) and be responsible for their maintenance until development sufficient to support the Neighborhood Association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the Neighborhood Association or the developer or subdivider.

APPENDIX A. DATA REQUIRED FOR SUBMISSION WITH SUBDIVISION APPLICATION:

A:01 A subdivision plat shall be submitted in ink on reproducible Mylar, with three copies, at a scale of not less than one inch equal to one hundred feet, on sheets measuring 8½" x 11", 11" x 17", 17" x 22", and 22" x 34." It may be accompanied by supplemental plans, also with three copies, at the same or larger scale than the Mylar, and other supporting documents, that may contain information indicated below as not required to be recorded. The plat, supplemental plans, and other supporting documents must contain all of the following data:

A. Existing conditions:

1. Boundary lines of tract: bearing and distances.
2. Streets on and adjacent to the tract: name, right-of-way, width of right-of-way, classification, type and width of surfacing, walks, curbs. If width of road surfacing is described as "varies," a minimum width must be given, e.g., "road width varies - minimum 18 feet."
3. Easements: locations, width and purpose.
4. Utilities on or adjacent to the tract: location, size and invert elevations of sewers; location and size of water mains, locations of fire hydrants, gas, electric and telephone lines and street lights.
5. Topography within the tract: contours with an interval of two feet. (This should be provided on a supplemental plan.) If the Board finds it necessary due to topography, the Board may require areas of >12% slope, >15% slope, and/or >25% slope to be identified.
6. Geographic features including water courses, swamps, ponds, wooded areas.
7. Identification of any area below the 100 year flood elevation as defined in the Bennington Floodplain Protection Zone, or a statement that no area is below this elevation.
8. Existing buildings and structures.
9. Locations of any non-residential uses with description.
10. Location of test pits and identification number of percolation tests as required; see Appendix B. (This should be provided on a supplemental plan.)
11. Soil type boundaries and identifications as described in Appendix B, certified by a soil scientist licensed by the State of New Hampshire. (This should be provided on a supplemental plan.)
12. Certification by a wetland scientist licensed by the state of New Hampshire of all wetlands data provided in Appendix B. (This should be provided on a supplemental plan.)
13. Conditions on adjacent land within twenty-five feet of boundary line: approximate direction and slope of grounds, embankment or retaining walls; buildings, railroads, power lines and non-residential land uses.
14. If the entire parcel does not fit on one sheet, a key plan showing proposed and existing lot lines of the entire parcel on a single sheet at an appropriate reduced scale.
15. Key plan showing location of the tract in the town at a scale of one inch is equal to a thousand feet.
16. Existing lot lines, size of all existing lots being subdivided, lot numbers of all abutting lots according to tax maps.

B. Proposed Improvements:

1. Proposed lot lines, lot numbers and size of all proposed lots. Proposed lots shall be numbered in accordance with town procedures: the existing lot number is retained for one subdivided lot, usually the one with the most existing improvements (or if none, the most

- acreage), and other subdivided lots are given new numbers.
2. Setback lines (for structures) based on proposed lot lines and town regulations.
  3. Reserved septic system area and other sewage disposal information, as described in Appendix B.
  4. Streets: name, right-of-way width; approximate grades; street signs and posts. (Utility and road plans and profile drawings may be provided on supplemental plans.)
  5. Other easements: location; width and purpose.
  6. Location and type of facilities.
  7. Locations of any non-residential uses with description.
  8. Sites to be reserved or dedicated for open space, parks, playgrounds or other public uses.

C. General Data:

1. Title and certificates: present owner with name, address, and deed references; notation stating acreage; scale, north arrow; datum benchmarks, certification of licensed civil engineer or registered land surveyor, date of survey, type of survey.
2. Certifications of licensed soil scientist and licensed wetland scientist.
3. Approval block providing space for date and signatures of Board chairman, secretary, and blank lines for at least 3 additional board members.

A:02 Plans for Streets:

A. The Board shall require, in addition to the subdivision plan, the submittal of complete plans and profiles of all proposed streets (designated relative to a fixed benchmark, identified on the property profile by transit and tape survey), including but not limited to:

1. Cross-sections at every one hundred (100) foot station along the profile. Sections will extend for at least one hundred (100) feet on either side of the center line (as identified on the profile) and for any additional distance necessary to include all planned cuts and fills. (Note: Test pits may be required at certain cross-sections);
2. Profiles of all proposed streets, horizontal and vertical curve data at the street centerline;
3. Street stationing every fifty (50) feet;
4. Intersection, turnaround, and/or cul-de-sac radii;
5. Statements and/or typical sections of proposed streets;
6. The developer shall have stakes set on center line with finished grades marked on them at least every 100 feet for the entire length of the roadway, or roadway side staked with distance and grades marked before each inspection.

A:03 Other Plans: The Board may require the submittal of complete plans and profiles of all proposed sanitary and storm sewers, and plans of proposed water supply.

A:04 Performance Guarantee: Appropriate evidence of performance guarantee in such forms as approved by the Board and Town Counsel in accordance with Sections 4:12 and 4:13 of these regulations shall accompany the subdivision plan application.

A:05 Application Form: Subdivision plans, supporting documents and data shall be accompanied by a properly completed application form which may be obtained from the Planning Board or town office (see Appendix D).

APPENDIX B. DESIGN CRITERIA:

B:01 Sewage Disposal:

A. Reserved Septic System Area:

1. Every subdivision application shall show on the plat or supplemental plan a reserved septic system area on each buildable lot that does not have an existing properly functioning septic system. The reserved septic system area shall not be used for buildings, wells, or other permanent structures, but shall be reserved for sewage treatment and septic effluent disposal.
2. The entire reserved septic system area must meet all town setback requirements for all structures, even where they exceed state setback requirements. The reserved septic system area shall be either:
  - a. A contiguous area of four thousand (4000) square feet. Such area must include a sufficient natural soil depth to meet the standards of the state of New Hampshire, or
  - b. If the applicant has obtained state “Approval for Construction” of a septic system design for the lot, the applicant may elect to treat a contiguous area including the entire approved septic system design as the reserved septic system area. If this option is elected, this contiguous area must be indicated on the plat or supplemental plan and identified as “approved designed septic system area,” and a copy of the state approval must be supplied.
3. The leach field area must meet all town setback requirements for leach fields, even where they exceed state setback requirements. The leach field shall be 125 feet away from all water bodies. The leach field shall be 125 feet away from poorly drained soils and very poorly drained soils, as defined by state regulations.

The leach field area can be shown to meet these setback requirements in either of two ways:

- a. The entire reserved septic system area can be shown to meet these requirements, or
  - b. If the applicant has obtained state “Approval for Construction” of a septic system design for the lot, the applicant may elect to show separately the approved proposed leach field area. If this option is elected, this area must be indicated on the plat or supplemental plan and identified as “approved designed leach field area,” and only this area need be shown to meet the setback requirements for leach fields.
4. The reserved septic system area shall not include any soils where ledge is exposed or where ledge is known to occur within 3 feet of the surface, unless a septic system design is approved by the state.

Within 75 feet of the reserved septic system area, all exposed ledge and all ledge known to exist within 3 feet of the surface shall be shown on the plat or supplemental plan.

When the Board finds it necessary in order to determine the proper response to an application, the Board may require additional information regarding the presence of

ledge.

5. Any land with a natural slope of 12 percent (12 feet vertical to 100 feet horizontal) or greater shall not be altered or used for the disposal of septic tank effluent, unless the applicant has obtained state "Approval for Construction" of a septic system design for the lot as provided in 2.b. above.
  6. The reserved septic system area shall not include any area below the 100 year flood elevation as defined in the Bennington Floodplain Protection Zone, unless a septic system design is approved by the state after the state has been informed of the presence of the area below the 100 year flood elevation.
- B. For each lot that has an existing properly functioning septic system, no reserved septic system area is required. Instead, a statement must be provided stating that the septic system is in good working order.
- C. Test Pits and Percolation Tests:
1. Test pits shall be constructed and percolation tests shall be performed in accordance with state requirements.
  2. For lots requiring a reserved septic system area, at least one test pit shall be dug on every lot, and a percolation test performed. This test pit must be within the reserved septic system area. Any soil with a percolation rate slower than two inches per hour shall not be used for the disposal of septic tank effluent.
  3. The Board may also require additional percolation tests and test pits if it deems them necessary given the conditions of the parcel.
  4. All percolation tests and test pits made shall be logged, recorded, located and dated on the soil plan. All test pit locations must be clearly identified on the plat or supplemental plan. A copy of all percolation test data and test pit data submitted to the state shall be given to the Board.
- D. Soils and Wetland Specifications:
1. Soil type boundaries and identifications shall be transcribed from soil maps provided by the Hillsborough County Conservation District.  
  
When the Board finds it necessary due to topography or soil conditions, the Board may require for all or part of the parcel that a high-intensity and/or site-specific soil survey be performed and be delineated on the plat or supplemental plan by a soil scientist qualified in field analysis utilizing standards of the National Cooperative Soil Survey.  
A certified soil scientist shall certify that all transcriptions and surveys have been accurately performed.
  2. A certified wetland scientist shall certify that all wetlands shown on the plat or supplementary plan have been delineated by an on-site survey of the parcel.  
  
The Board may require that additional wetlands be delineated and shown on the plat or supplementary plan, and/or that wetlands be flagged on the ground.
  3. When the Board finds it necessary, the Board may require that depth to ledge, clay, hardpan layers, and/or existing and expected seasonal high water table data be shown

both on the soil plan and on the plat or supplemental plan.

4. When the Board finds it necessary to determine the proper response to an application, the Board may request a site review with comments from the Hillsborough County Conservation District, Milford, New Hampshire or other consultant it may select, at the applicant's expense.

B:02 Streets:

- A. Names of streets in a proposed subdivision shall be subject to the approval of the Planning Board to eliminate confusion with the names of existing streets and roads.
- B. Proposed streets shall be in harmony and conformance with existing and proposed streets in Bennington. Street patterns shall give due consideration to contours and natural features. Where required by the Board, provision shall be made for the extension of the street pattern to abutting undeveloped property. Every proposed street in a subdivision shall be laid out and constructed as required by these regulations, or as modified at the time of the consideration of the subdivision proposal.
- C. Where a subdivision abuts an existing street with an inadequate alignment, or right-of-way width, the subdivision plat shall include in the street dedication all land needed to meet the standards established by these regulations, and as approved by the Board.
- D. All buildings or structures shall meet the requirements of the Zoning Ordinance. When the Planning Board deems it necessary, it may require a buffer between the traveled way of a street and the property of an abutter to the subdivision.
- E.
  1. Dead-end streets - permanent dead-end streets shall either terminate in a turnaround 100' in diameter with a paved area 80' in diameter, or alternatively, permanent dead-end streets may terminate in other turnarounds acceptable to the Board, such as hammerheads, provided that all of the following conditions are met:
    - a. Each leg of any turnaround shall be at least 60 feet in length with a paved area 50 feet in length, measured from the near edge of the abutting street or leg of the turnaround.
    - b. The radius at any corner of any turnaround, and at any corner of the paved area, shall be not less than 40 feet.
    - c. Each turnaround shall be maintained to the same extent as the street of which it forms an end.
    - d. Prior to approval, the Board shall have consulted with the Road Agent and Fire Chief regarding the geometry of the turnaround.
  2. The length of the dead-end street shall not exceed 600' unless an alternate distance is determined to be appropriate by the Planning Board.
- F. Temporary dead-end streets, where future extension to another outlet is approved by the Board, or where indicated on the subdivision plat, may exceed six hundred feet in length. In such a case, the full width of the right-of-way to the subdivision property line shall be dedicated to the Town of Bennington.
- G. Except where it is impracticable, because of the character of the land and then only when

specifically approved by the Board, streets shall intersect so that within seventy-five feet of the intersection the street lines are at right angles, and the grade within fifty feet does not exceed one percent. No structure of planting shall impair corner visibility.

- H. All streets shall be constructed and paved, and all bridges, culverts, drainage structures, storm sewers, gutters, drainage ditches, and other improvements required by the subdivision plat and accompanying documents, shall be installed in conformance with standards and specifications adopted by the Town of Bennington, N.H.

B:03 Street Specifications:

- A. New streets shall have a minimum right-of-way of fifty feet, minimum traveled width of twenty feet, minimum shoulder width of four feet on each side, maximum gradient of twelve percent, and a minimum gradient of one-half of one percent.
- B. Subdividers shall comply with minimum design criteria established by the New Hampshire Department of Public Works and Highways in its Geometric and Structural Guides for Town Road Aid Projects and such other specifications required by the Town and by the Board.
- C. Any newly constructed road shall "winter over" for a period of one year before acceptance by the Town.
- D. The entire area of each right-of-way shall be cleared of all stumps, brush, roots and trees not designated for preservation.
- E. The full length and width of the proposed roadway traveled area and shoulders shall be excavated or filled as necessary, to a depth of at least twenty-four inches below the finished grade as shown on the profile. However, if the soil is soft and yielding, or contains undesirable material such as loam, peat, soft clay or any other material detrimental to the subgrade, such material shall be removed and replaced with suitable well compacted material. In fill area no boulder greater than one foot in its largest dimension shall be placed within two feet of the gravel base.
- F. The centerline of the traveled roadway area shall coincide with the centerline of the right-of-way unless a minor variance is specifically approved by the Board.
- G. The traveled roadway area shall be provided with a foundation consisting of at least eighteen inches of compacted gravel. Gravel shall be hard, durable stone and coarse sand practically free from loam and clay uniformly graded and containing no stone having a dimension greater than six inches or more than ten percent fine passing the two hundred sieve.
- H. Traveled roadway area to be fine-graded with a six inch crushed or bankrun gravel containing no organic material. No stone shall have a dimension greater than two inches.
- I. Gravel is to be spread and compacted at six inch intervals immediately prior to paving, all depressions shall be filled and compacted until surface is true to line and grade.
- J. Wearing surfaces shall be two and one-half inch plant mixed bituminous concrete applied in two courses. Base course is to be one and one-half inches rolled to true grade. Finished course to be one inch rolled to true grade.
- K. Stabilized shoulders shall be constructed starting two feet from each side of the traveled roadway and shall consist of four inches of rolled and seeded loam on top of at least eight inches of well-compacted gravel.

- L. The area in back of the shoulders shall be sloped no steeper than at a rate of two feet horizontal to one foot vertical to a point where it coincides with the finished grade abutting lots. Loam shall be applied to a depth of four inches, rolled and seeded or covered with other suitable mulching materials.
- M. Guard rails shall be provided in back at the shoulder above fill areas greater than six feet.
- N. The street specifications as listed above also apply to existing roads to be upgraded to Class V standards with the exception that the paving requirement may be waived when paving would be inconsistent with an adjoining section of the existing road.

B:04 Driveways:

- A. Permission to construct driveways as entrances, exits or approaches to State or Town roads shall be in accordance with New Hampshire Revised Statutes Annotated, as amended, Chapter 249, Section 17, and with applicable permit procedures and design criteria established by the New Hampshire Department of Public Works and Highways for state-maintained roads and by the Board of Selectmen for town roads. A permit must be obtained from the Division 7 Chief Engineer for state-maintained roads and from the Board of Selectmen for town-maintained roads. The edge of the traveled way of all driveways must be twenty feet from abutters' property.
- B. ***Shared Driveways: The town looks favorably on shared driveways as it reduces the number of curb cuts onto main roadways. The easements or rights-of-way language shall be finalized and agreed upon prior to submitting to the Board of Selectmen for a driveway permit. The edge of the traveled way must be twenty (20) feet from abutters' property, unless that property owner has rights to the shared driveway.***

B:05 Drainage:

- A. Storm drains, culverts, and related installation, including catch basins, gutters and manholes shall be installed within the subdivision as necessary to adequately dispose of surface water. Where ground water conditions necessitate it, the Board may require the use of subdrain to drain the base course of the road.
- B. Storm drains shall be reinforced concrete pipe, asphalt coated steel or plain aluminum corrugated pipe. The minimum size of the pipe shall be twelve inches inside diameter and shall be of greater size when required by the Board. The minimum pitch shall be five-tenths percent. All drains shall be laid to uniform grades and carefully backfilled so that the pipe is supported throughout its entire length with compacted earth.
- C. Catch basins, where required, shall be installed on both sides of the roadway at intervals of not more than three hundred fifty feet, at low points, and near the corners of the roadway at intersecting streets. Any change in alignment or grade, if not normally the location of a catch basin, shall be made by using a manhole.
- D. Catch basins shall have a two-foot sump and manholes of shaped concrete bottom to allow for a smooth flow of water through the structure.
- E. Where adjacent property is not subdivided, provision shall be made for the extension of the drainage system by continuing appropriate drains to the exterior boundaries of the subdivision, at

such size and grade as will allow for their proper projection.

B:06 Markers:

- A. Markers shall be installed on both sides of the right-of-way, at all street intersections, at all points of change of direction or curvature of streets and at other points where in the opinion of the Board permanent markers are necessary. Such markers shall be of granite or reinforced concrete not less than four inches square and not less than four feet long set flush with the finished grade.
- B. Where surface ledge is encountered, a one-foot by three-quarter inch iron pin inserted in the ledge may be substituted.
- C. No markers shall be installed until all construction which would destroy or disturb the marker is completed.
- D. The setting of the markers shall be supervised by a registered land surveyor or licensed civil engineer.

B:07 Street Signs:

- A. The subdivider shall furnish and erect signs before erecting any buildings. Signs must be at all intersections and shall be of the same type being used in the Town at the time of subdivision approval.
- B. The subdivider shall also furnish and set such other traffic control signs as the Board shall require.

B:08 Clean Up:

- A. Upon completion of all work on the ground, the subdivider shall remove from the streets and adjoining property, all temporary structures and all surplus material and rubbish which may have accumulated during construction, and shall leave the work in a neat and orderly condition.

B:09 Inspection:

- A. The Board shall provide for inspection of all construction phases in a subdivision to insure full compliance with regulations. The inspector is not authorized to make any changes from regulations or from the approved plat or from the conditionally approved plat without specific approval of the Board. Inspections, at a minimum, will take place at the following steps:
  - 1. After drainage and/or filling has been started but before the gravel placement operation has been started.
  - 2. After drainage system is installed, but before it is covered, pipe alignment and any defective runs shall be corrected before approval is given.
  - 3. After gravel has been placed and shaped but before the surface has been applied.
  - 4. After surface has been placed and while shoulder work is in progress and
  - 5. At other specific times deemed necessary by the Board or the inspector.
- B. The subdivider shall give at least twenty-four hours notice to the Board whenever an inspection is indicated. Necessary base-lines and grade stakes shall be in place.
- C. Records of inspection shall be kept on file at the town offices in the files of the Planning Board and shall be signed and dated by the inspector with any comments or recommendations regarding

the work.

B:10 Other:

- A. Trees and planting and proposed park or open spaces shall be in accordance with requirements of the Town and these subdivision regulations, or as required by the Planning Board at the time of consideration of the subdivision.

***B:11 Fire Protection:***

- A. ***The Board recognizes the need for adequate fire protection systems on all new subdivisions. Proposed subdivisions which are greater than five (5) housing units must contain one or more of the following attributes:***

1. ***Fire pond(s) of adequate size and stability.***
2. ***Fire cistern system(s) of adequate size.***
3. ***Individual fire suppression systems of adequate water pressure and water volume.***
4. ***A town fire hydrant within 1,000 feet of the furthest housing unit.***
5. ***Other adequate water supplies within 1,000 feet of the furthest housing unit.***

- B. ***A letter from the Fire Chief that there is adequate access and water supply for fire protection.***

APPENDIX C. EROSION AND SEDIMENT CONTROL PLAN:

C:01 Definitions:

- A. "Board" means the Planning Board of the town of Bennington, N.H.
- B. "Development" means any construction or grading activities to improved or unimproved real estate.
- C. "Disturbed area" means an area where the ground cover is destroyed or removed leaving the land subject to accelerated erosion.
- D. "Erosion" means the detachment and movement of soil or rock fragments by water, wind, ice or gravity.
- E. "Grading" means any excavating, grubbing, filling (including hydraulic fill) or stockpiling of earth materials or any combination thereof, including the land in its excavated or filled condition.
- F. "Inspection" means the periodic review of sediment and erosion control measures shown on the approved plan.
- G. "Sediment" means solid material, either mineral or organic, that is in suspension, is transported, or has been moved from its site of origin by erosion.
- H. "Soil" means any unconsolidated mineral or organic material of any origin.
- I. "Soil Erosion and Sediment Control Plan" means a scheme that minimizes soil erosion and sedimentation resulting from development and includes, but is not limited to, a map and narrative.

C:02 Activities Requiring an Erosion and Sediment Control Plan:

- A. A soil erosion and sediment control plan shall be submitted with any application for a subdivision when the disturbed area of such development is cumulatively more than one-half acre.
- B. A dwelling that is not a part of a subdivision of land shall be exempt from the requirement of an Erosion and Sediment Control Plan.

C:03 Purpose:

- A. A soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology. Such principles, methods and practices necessary for a proper one are found in "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" of 1981 and as subsequently amended.

C:04 Submission Of The Plan Shall Include But Not Be Limited To:

- A. A narrative describing
  1. The development
  2. The schedule for grading and construction activities including:
    - a. Start and completion dates
    - b. Sequence of grading and construction activities
    - c. Sequence for installation and/or application of soil erosion and sediment control measures
    - d. Sequence for final stabilization of the project site.
  3. The design criteria for proposed soil erosion and sediment control measures and storm water management facilities.
  4. The construction details for proposed soil erosion and sediment control measures and storm water management facilities.
  5. The installation and/or application procedure for proposed soil erosion and sediment control measures and storm water management facilities.
  6. The operations and maintenance program for soil erosion and sediment control measures and storm water management facilities.
- B. A site plan map at a sufficient scale to show:
  1. The location of the proposed development and adjacent properties;
  2. The existing and proposed topography including soil types, wetlands, watercourses and water bodies;
  3. The existing structures on the project site if any;
  4. The proposed area alterations including cleared, excavated, filled or graded areas and proposed structures, utilities, roads and, if applicable, new property lines;
  5. The location of and design details for all proposed soil erosion and sediment control measures and storm water management facilities;
  6. The sequence of grading and construction activities;
  7. The sequence for installation and/or application of soil erosion and sediment control measures;
  8. The sequence for final stabilization of the development site.

C:05 Any Other Information Deemed Necessary And Appropriate By The Applicant Or Requested By The Planning Board

C:06 Minimum Acceptable Standards:

- A. Plans for soil erosion and sediment control shall be developed in accordance with the principles as outlined in "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" of 1981 and as subsequently amended. Soil erosion and sediment control plans shall result in a development that minimizes erosion and sedimentation during construction, is stabilized and protected from erosion when completed, and does not cause off-site erosion and/or sedimentation.
- B. The minimum standards for individual measures are those in the "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" of 1981 and as subsequently amended. The Planning Board may grant exceptions when requested by the applicant if technically sound reasons are presented.
- C. The appropriate method from Section 4 of the "Erosion and Sediment Control Design Handbook for Developing Areas of New Hampshire" of 1981 and as subsequently amended, shall be used in determining peak flow rates and volumes of run-off unless an alternative method is approved by the Board.

C:07 General Provisions:

- A. Nothing in these regulations shall be construed as extending the time limits for the approval of any application under RSA 676.4.
- B. The Board may forward a copy of the development proposal to the Conservation Commission of the Town of Bennington, the Hillsborough County Conservation District, Milford, N.H., or other review agency or consultant for review and comment.
- C. The estimated costs of measures required to control soil erosion and sedimentation, as specified in the submitted plan, may be covered in a performance bond or other assurance acceptable to the Board in accordance with the provision specified under Section 4:12 of these subdivision regulations.
- D. Site development shall not begin unless the soil erosion and sediment control plan is approved and those control measures and facilities in the plan scheduled for installation prior to site development are installed and functional.
- E. Planned soil erosion and sediment control measures and facilities shall be installed as scheduled according to the plan.
- F. All control measures and facilities shall be maintained in effective condition to ensure the compliance of the plan.
- G. Inspections shall be made by the Planning Board or its designated agent during development to ensure compliance with the plan and that control measures and facilities are performed or installed and maintained. The Board may require the permittee to verify through progress reports that soil erosion and sediment control measures and facilities have been performed or installed according to the plan and are being operated and maintained.



APPENDIX D

SUBDIVISION APPLICATION & CHECKLIST  
TOWN OF BENNINGTON, N.H.

DATE: \_\_\_\_\_

FILE NO. \_\_\_\_\_

\_\_\_ BOUNDARY AGREEMENT    \_\_\_ LOT LINE ADJUSTMENT    \_\_\_ TECHNICAL SUBDIVISION  
\_\_\_ MINOR SUBDIVISION    \_\_\_ MAJOR SUBDIVISION

This form and all required information must be filed at least 15 days prior to the meeting at which it is to be submitted to the Board. A completed application consists of the following information, in addition to a completed checklist (attached) and the payment of all applicable fees.

1. Name, mailing address and telephone number of applicant.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
2. Name, mailing address and telephone number of owner of record if other than applicant.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
3. Name, mailing address and telephone number of surveyor or person who prepared the plat.  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
4. Location of proposed subdivision (including tax map and lot number): \_\_\_\_\_  
\_\_\_\_\_
5. Name of proposed subdivision: \_\_\_\_\_
6. Total acreage: \_\_\_\_\_ Number of lots and/or units: \_\_\_\_\_
7. Water Supply and Pollution Control Div. Approval No.: \_\_\_\_\_
8. Zoning District(s): \_\_\_\_\_  
Does the proposal comply with the zoning requirements? \_\_\_\_\_
9. Abutters: Attach a separate sheet listing the names, mailing addresses and tax map & lot numbers of all abutters, including those across a street, brook or stream. Names should be taken from the Bennington tax records no longer than five (5) days prior to the application submission.
10. Items on the attached checklist.
11. Payment of all applicable fees:

\$ _____ per lot	\$ _____
Advertising Notices	\$ _____
Abutter Notification	\$ _____
TOTAL	\$ _____

The applicant and/or owner or agent certifies that this application is correctly completed with all required attachments and requirements and that any additional costs for engineering or professional services incurred by the Planning Board or the Town for processing this application shall be borne by the applicant and/or owner.

“I hereby authorize the Bennington Planning Board and/or its agents to access my land for the purpose of reviewing this subdivision plan, performing road inspections and any other inspections deemed necessary by the Board or its agents, to ensure conformance of on-site improvements with the approved plan and all Town ordinances and regulations.”

Owner or Agent \_\_\_\_\_

If this application is determined by the Planning Board or its designee to be complete, it will be placed on the agenda for submission on \_\_\_\_\_.

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**FOR PLANNING BOARD USE ONLY**

Completed Application Filed \_\_\_\_\_  
(date)

Fees Paid \_\_\_\_\_  
(date)

Completed Application Submitted \_\_\_\_\_  
(date)

Application Accepted/Rejected \_\_\_\_\_  
(date)

Public Hearing \_\_\_\_\_  
(date)

Application Approved/Disapproved \_\_\_\_\_  
(date)

Letter to Applicant Notifying Disapproval \_\_\_\_\_  
(date)

1. SHOULD THIS SUBDIVISION BE CONSIDERED  
PREMATURE AND SCATTERED ACCORDING TO  
SECTION IV, 4:03 OF THE SUBDIVISION REGULATIONS?  YES  
 NO
2. DOES THE APPLICATION HAVE REGIONAL IMPACT  
ACCORDING TO SECTION X OF THE SUBDIVISION REGULATIONS?  YES  
 NO

**GENERAL PLAT REQUIREMENTS**

<u>REQUIRED</u>			<u>RECEIVED</u>	
YES	NO		YES	NO
<input type="checkbox"/>	<input type="checkbox"/>	1. Title and certificates; present owner with name and address; notation stating acreage, scale and north arrow; datum benchmarks, certification of licensed civil engineer or registered land surveyor, date of survey and type of survey (Appendix A, item C-1).	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	2. Key plan showing location of the tract in the town at a scale of one inch is equal to a thousand feet (Appendix A, item A-8).	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	3. Plat and lots numbered according to tax maps (Section 4:05-A).	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	4. The final plat on a mylar of acceptable size: 8 1/2" x 11" , 11" x 17" , 17" x 22" , or 22" x 34" (Section 8:01, item B-2).	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	5. Conditions on adjacent land within 25 feet of boundary line; approximate direction and slope of ground, embankment or retaining walls; railroads, power lines and non-residential uses (Appendix A, item A-7).	<input type="checkbox"/>	<input type="checkbox"/>

**BOUNDARY INFORMATION**

<input type="checkbox"/>	<input type="checkbox"/>	6. Boundary lines of entire tract and all proposed lots; bearings and distances (Appendix A, item A-1).	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	7. All lot lines, number and size (Appendix A, item B-5).	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	8. Easements: locations, width and purposes (Appendix A, item A-2).	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	9. Proposed easements: locations, widths and purposes (Appendix A, item B-2).	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	10. Existing and proposed sites to be reserved or dedicated for open space, parks, playgrounds, or other public uses (Appendix A, item B-6).	<input type="checkbox"/>	<input type="checkbox"/>

REQUIRED  
YES NO

RECEIVED  
YES NO

**BUILDINGS AND OTHER STRUCTURES**

- |                          |                          |     |   |                          |                          |
|--------------------------|--------------------------|-----|---|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | 12. | Proposed building (setback) lines based on town regulations (Appendix A, item A-4).     | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 13. | Location and type of proposed facilities (Appendix A, item B-3).                        | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 14. | Locations of any proposed non-residential uses with description (Appendix A, item B-4). | <input type="checkbox"/> | <input type="checkbox"/> |

**NATURAL FEATURES**

- |                          |                          |     |   |                          |                          |
|--------------------------|--------------------------|-----|---|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | 15. | Topography within the tract; contour lines at five foot intervals; geographic features including water courses, swamps, ponds, wooded areas and floodplains (Appendix A, item A-6). | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 16. | A soil overlay certified by a New Hampshire licensed soil scientist.  | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 17. | A soil erosion and sediment control plan shall be submitted when the land area disturbed by a subdivision will be cumulatively more than one-half acre (Appendix C:02,A).           | <input type="checkbox"/> | <input type="checkbox"/> |

**WASTE DISPOSAL**

- |                          |                          |     |  |                          |                          |
|--------------------------|--------------------------|-----|--|--------------------------|--------------------------|
| <input type="checkbox"/> | <input type="checkbox"/> | 18. | Test pit and perc test data for each newly-created lot. Such data shall be logged, recorded, dated, and located on the soil overlay (Appendix B, item A-1).  | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 19. | For each newly-created lot, a septic area consisting of 4,000 contiguous square feet shall be shown on the plan, 100 feet away from wetland soils and 75 feet away from soils where ledge occurs within 3 feet of the surface (Appendix B, item B-1).                      | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 20. | State subdivision approval from the NH Water Supply and Pollution Control Commission for all proposed septic areas (Section 4:10, item B-1).<br>NHWSPC address:<br>NH Department of Environmental Services, WSPC Division<br>P.O. Box 95, 6 Hazen Drive, Concord, NH 03301 | <input type="checkbox"/> | <input type="checkbox"/> |
| <input type="checkbox"/> | <input type="checkbox"/> | 21. | All existing septic systems shall be shown on the plan. The applicant shall also provide a letter stating that the system is in working order, or provide the NHWSPC approval number for the system (Section 4:05, item C).  | <input type="checkbox"/> | <input type="checkbox"/> |

REQUIRED  
YES NO

RECEIVED  
YES NO

UTILITIES

- |     |     |     |  |     |     |
|-----|-----|-----|--|-----|-----|
| ___ | ___ | 22. | Utilities on or adjacent to the tract; location, size and invert elevations of sewers; location and size of water mains; locations of fire hydrants, gas, electric and telephone and street lights (Appendix A, item a-5). | ___ | ___ |
| ___ | ___ | 23. | Drainage plan including storm drains, culverts, related installation, catch basins, gutters and manholes (Appendix B, item 5).   | ___ | ___ |

OTHER PERMITS OR APPROVALS

- |     |     |     |  |     |     |
|-----|-----|-----|--|-----|-----|
| ___ | ___ | 24. | Any other permits or approvals required by either local, state or federal boards or agencies (e.g., Wetlands, DES, etc.) | ___ | ___ |
|-----|-----|-----|--|-----|-----|

STREETS

The Board shall require, in addition to the subdivision plan, the submittal of complete plans and profiles of all proposed streets (designated relative to a fixed benchmark, identified on the property profile by transit and tape survey), including but not limited to the following items:

- |     |     |      |   |     |     |
|-----|-----|------|---|-----|-----|
| ___ | ___ | 1.   | Existing streets on and adjacent to the tract; name, right-of-way width, classification, width of surfacing, walks and curbs (Appendix A, item A-3).    | ___ | ___ |
| ___ | ___ | 2.   | Proposed streets: name, location, right-of-way width, approximate grades, street signs and posts (Appendix A, item B-1).                                | ___ | ___ |
| ___ | ___ | 3.   | Cross sections at every 100-foot station along the profile (Appendix A, Plans for Streets).   | ___ | ___ |
| ___ | ___ | 4.   | Profiles of all proposed streets, horizontal and vertical curve data at the street centerline (Appendix A, Plans for Streets).                          | ___ | ___ |
| ___ | ___ | 5.   | Street stationing every fifty feet (Appendix A, Plans for Streets).   | ___ | ___ |
| ___ | ___ | 6.   | Intersection, turnaround, and/or cul-de-sac radii (Appendix A, Plans for Streets).  | ___ | ___ |
| ___ | ___ | 7.   | Statements and/or typical sections of proposed streets (Appendix A, Plans for Streets)  | ___ | ___ |
| ___ | ___ | 8.a. | Permit from Town Road Agent for driveway entering onto Town roads.  | ___ | ___ |
| ___ | ___ | 8.b. | Permit from the NH Department of Transportation for driveway(s) bordering on a state highway (Zoning Ordinance Article X, Section H).<br>NHDOT address: | ___ | ___ |

