

**RULES AND REGULATIONS
GOVERNING THE SUBDIVISION OF LAND IN
MONTEREY, MASSACHUSETTS**

**(Adopted under the Subdivision Control Law,
Sections 81-K to 81 GG inclusive,
Chapter 41, MGL)**

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Chapter 41, G.L.)**

PURPOSE

"The subdivision control law has been enacted for the purpose of protecting the safety, convenience and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases, parks and open areas. The powers of a Planning Board and of a Board of 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 insuring compliance with the applicable zoning ordinances or by-laws and with their purpose; for securing adequate provision for water, sewerage, drainage and other requirements where necessary in a subdivision; and for coordinating the ways in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions and for maintaining the character of the community. It is the intent of the subdivision control law that any subdivision plan filed with the Planning Board shall receive the approval of such Board if said plan conforms to the recommendation of the Board of Health and to the reasonable rules and regulations of the Planning Board pertaining to subdivisions of land; provided, however, that such Board may, when appropriate, waive, as provided for in section 81-R, such portions of the rules and regulations as is deemed advisable." (Section 81-M of Chapter 41, General Laws)

I. AUTHORITY

Under the authority vested in the Planning Board of the Town of Monterey by Section 81-Q of Chapter 41 of the General Laws, said Board hereby adopts these rules and regulations governing the subdivision of land in the Town of Monterey

II. GENERAL

A. DEFINITIONS

'SUBDIVISION' shall mean the division of a tract of land into two or more lots and shall include re-subdivision, and, when appropriate to the context, shall be related to the process of subdivision of the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the meaning of the subdivision control law if, at the time when it is made, every lot within the tract so divided has frontage on (a) a public way or a way which the Clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved in accordance with the subdivision control law, or (c) a way in existence when the subdivision control law became effective in the town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the needs of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or town for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least twenty feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of as not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which the land lies into separate lots on each of which one of such buildings remains standing, shall not constitute a subdivision." (Section 81-L of Chapter 41, General Laws)

"PRELIMINARY PLAN" shall mean a plan of a proposed subdivision or re-subdivision of land drawn on tracing paper, or a print thereof, showing (a) the subdivision name, boundaries, north point, date, scale, legend and title "Preliminary Plan"; (b) the names of the record owner and the applicant and the name of the designer, engineer or surveyor; (c) the names of all abutters, as determined from the most recent local tax list; (d) the existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner; (e) the proposed system of drainage, including adjacent existing natural waterways, in a general manner; (f) the approximate boundary lines of proposed lots, with approximate areas and dimension; (g) the names, approximate location and widths of adjacent streets; (h) and the topography of the land in a general manner." (Section 81-L of Chapter 41, G.L.) (i) the location and boundaries of wetlands in a general manner.

"MAJOR STREET" Within a subdivision, a major street is one which either (1) may carry through traffic, from place to place, or (2) serves as the entrance or principal circulation street or (3) provides access to 10 or more lots or dwelling units.

"MINOR STREET" Within a subdivision, a minor street is used mainly to provide access to abutting lots and is not used for through traffic.

B. PLAN BELIEVED NOT TO REQUIRE APPROVAL AS SUBDIVISION

1. SUBMISSION

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 and application Form A (see Appendix) to the Planning Board, at a regular planning board meeting, accompanied by the fee (see Section II.D.) and 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 Monterey Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. If the notice is given by delivery, the Monterey Town Clerk shall, if requested, give a written receipt therefore.

2. CONTENTS

In addition to the information commonly contained in plans of land prepared for recording in the Registry, such plans shall show:

a. That each lot on the plan and any parcel altered by the plan meets the requirements of the Zoning By-Law as to minimum area and frontage, and that the required frontage is on:

1) A public way or a way which the Town Clerk certifies is maintained and used as a public way, or

2) A way shown on a plan which has previously been approved and endorsed by the Planning Board in accordances with the Subdivision Control Law, or

3) A way in existence when the subdivision Control Law became effective in and having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction. (See Section 61-L of Chapter 41 of the General Laws for details.)

b. The location of any structures on lots created by the plan and on parcels of land altered by it; and

c. Any zoning district boundaries established by the Zoning By-Law.

OR

d. That the plan represents an existing parcel with no new lot lines and is so certified by a registered land surveyor.

3. DETERMINATION

a. In determining whether a plan complies with purpose of the Subdivision Control Law as to the provision of adequate access to all of the lots by ways which are safe and convenient to travel, the plan must show, among other things, that buildable parts of lots are accessible from their respective borders from the way shown on the plan, and that there is no intent to provide access to any lot by s way not shown on the plan which would constitute a subdivision within the meaning of the Subdivision Control Law.

b. In determining whether a way has been used and maintained as a public way, the Town Clerk shall submit to the Board written evidence of public maintenance under vote of the town and of continued substantial use by the general public without permission of the landowners along the way, continuous for at least 20 years.

c. In determining whether any existing way is adequate to qualify a plan as not constituting a subdivision, the Board shall consider the following conditions, among others:

1) Is the right-of-way at least 40 feet wide and of reasonable horizontal alignment ?

2) Does the existing horizontal and vertical alignment of the roadway provide safe visibility ?

3) Is the traveled way constructed at least eighteen feet wide, with at least eight inches of gravel, and with adequate provisions for drainage?

4) If the road could ever serve more than two dwelling units, is the surfacing adequate without further improvements by the Town ?

4. BOARD ACTION

If the Board find that the plan does not require approval, it shall forthwith, without a public hearing and within 14 days of submission endorse on the plan by a majority of the Board or by a person authorized by the Board the words "Planning Board approval under subdivision Control Law not required" or words of similar import with appropriate name or names signed thereto. Such endorsement shall not be withheld unless such plan shows a subdivision. Said plan shall be returned to the applicant.

If the Board determines that the plan does require approval under the Subdivision Control Law, it shall, within 14 days of submission of said plan, give written notice of its determination to the Town Clerk and to the applicant. Said plan shall be returned to the applicant.

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

C. SUBDIVISION

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvement or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a Definitive Plan of such subdivision has been approved and endorsed by the Planning Board as hereinafter provided.

D. APPLICATION AND FEES

- 1. All applications shall be made on the prescribed forms and shall be accompanied by a check, payable to the Town of Monterey, in the following amount:**
 - a. Approval Not Required (ANR) Plan (Section 81P) Form A —\$75.00**
 - b. Preliminary Plan (Section 81S) Form B — \$100.00 plus \$20.00 per lot or per housing unit which ever is greater.**
 - c. Definitive Plan / Form C — \$200.00 per lot plus \$25.00 per lot or per housing unit which ever is greater.**

2. Applicant shall promptly reimburse the Town for the cost of publishing notice of all Public hearings for the Definitive Plan.

3. In order to properly and completely evaluate compliance of the proposed Preliminary Plan and or the Definitive Plan with the Subdivision Regulations, the Planning Board may, at its discretion, engage a consultant to review the plans, calculations, Environmental Impact Statement, and other data required by the regulations or submitted by the Applicant. Costs for this review which exceed the application fee shall be borne by the Applicant.

III. PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS:

General Requirements

A. Submission of Applications

- (1) All applications for consideration by the Planning Board shall be submitted to the Board either by delivery at a regularly scheduled meeting of the Board, or sent by registered mail to the Planning Board, care of the town clerk. If so mailed, the date of mailing shall be the date of submission of the plan.**
- (2) The application shall include the requisite number of copies of the plans and application materials required by these regulations, and shall be accompanied by an application fee according to the schedule promulgated from time to time by the Board. The applicant may also submit additional information to explain the proposed project and compliance with the Subdivision Control Law and these regulations.**
- (3) Applicant shall also give written notice to the town clerk by delivery or by registered mail that the plan has been submitted to the Planning Board. The notice shall be in the form of a properly completed and executed application form signed by the applicant and the owner of the land, and describing the land to which the plan relates in sufficient detail to identify the land, and giving the date when the plan was submitted.**

B. Completeness Review

- (1) At the Board meeting at which the plan is presented for consideration, the Board will review the submission for completeness using a checklist, and will notify the applicant whether or not the plan is complete.**
- (2) Incomplete Submission. An application that lacks required information may be rejected by the Board on the basis of being an incomplete submission, or the Board may allow the applicant to supplement the original application with the required information or withdraw the application and resubmit a complete application. An incomplete application will not be acted on until the required information is submitted. The applicant must agree in writing to extend the statutory time frames for action on the application by the time between the date of the Board's determination of incomplete application and the date when the Board receives the required information and determines the application is**

complete. The Board shall file written notices of incomplete application, extension of time, or other decisions with the Town Clerk.

C. Adequacy of Access.

- (1) General.** A Plan shall be approved or endorsed only if each building lot to be created by such plan has adequate actual access from the lot's frontage to a buildable portion of the lot.
- (2) Division of lots along existing ways.** An existing way may provide access to lots shown on a plan for which Approval is Not Required under the Subdivision Control Law if the Board determines it will provide adequate access, as specified below.
- (3) Proposed subdivision road extending from an existing way.** An existing way or ways may be considered to provide adequate access leading to a proposed subdivision road if the Board determines that the design and construction features of the existing way will provide safe and adequate access by existing and proposed new traffic on the existing way leading to the subdivision, as specified below.
- (4) Adequacy of existing ways.** The Board shall determine that an existing way is adequate to provide access only if the existing way meets one or more of the following:
 - a). the way is owned and maintained by the town; or
 - b). the way is used and maintained by the town; if there is a question about whether a way is used and maintained as a public way, the Town Clerk shall submit to the Planning Board written evidence of public maintenance under vote of the town and of continued substantial use by the general public without permission of the landowners along the way, continuously for at least 20 years; or
 - c). the way existed prior to May 9, 1974 when the subdivision control law was accepted in the Town of Monterey, and the Board determines that the way has adequate construction and maintenance to provide safe and adequate access for the existing and proposed uses, as specified below.
 - d). The Board shall, at a minimum, consider the following criteria when determining if the existing way is adequate: the width of the right of way is at least 40 feet; the way has an all-weather surface with a traveled way at least eighteen feet wide at all points; the way has at least 100 feet of stopping sight distance at all points; the way has grades no greater than twelve percent (12%) at all points; the way has a storm drainage system adequate to assure uninterrupted access; and the way has other design and construction features which, in the opinion of the Board, are necessary to provide safe and adequate access along the existing way for the proposed uses, considering existing and proposed traffic volumes and type, and access by fire-fighting equipment and other emergency vehicles.
- (5) Inadequate ways.** If the Board determines that the existing way is not adequate as noted above, it shall notify the applicant in writing that the proposed application constitutes a subdivision and requires a definitive plan approval in order to make the improvements to the existing way

sufficient to provide access. The Board shall also notify the Town Clerk of its determination.

D. Employment of Outside Consultants.

- (1) General.** The Board may determine that the size or complexity of a proposed subdivision or its impacts warrant the services of outside consultants (including but not limited to engineers, planners, lawyers, hydrogeologists, or others) for plan review, impact analysis, inspections, or other technical assistance in relation to the proposal. Such professionals shall be selected and retained by the Board as provided in MGL c. 44 § 53g, with the reasonable costs for their services to be paid by the applicant.
- (2) Selection and administrative appeal.** The applicant shall be notified in writing with name of the selected consultant(s) at least seven calendar days prior to initiation of the consultant's efforts, unless this notice period is waived in writing by the applicant. The applicant may administratively appeal the selection of the consultant(s) to the Board of Selectmen. The grounds for such an appeal shall be limited to claims that the proposed consultant has a conflict of interest or does not possess the minimum required qualifications. Such an appeal may be initiated by the applicant filing notice with the Town Clerk within five working days after the Board's date of notice of its selection. Consultant shall not begin its services until any appeal has been decided or 30 calendar days have elapsed without the Selectmen's decision, in which case the Planning Board's selection shall stand. Required time limits for action by the Board upon an application shall be automatically extended by the duration of the administrative appeal.
- (3) Funding.** The applicant shall file with the Board an amount of money equal to the estimated cost for the services of the consultant(s), as determined by the Board. The Board expects that the cost will generally be proportional to the size and complexity of the project, and the number of reviews and meetings required. The funds shall be deposited by the town treasurer into a special interest bearing account as provided by MGL c. 44 § 53g. The funds in the special account, including accrued interest, shall be expended at the direction of the Board without further appropriation. If the unexpended balance falls below 30% of the initial estimate, or the estimate is raised to pay for additional services deemed necessary by the Board, the account shall be restored to its original level or such lower level as determined to be reasonable and necessary by the Board. Upon completion of the project and final payment of the outside consultant(s), any unexpended balance, included including accrued interest, shall be repaid to the applicant or the successor in interest.
- (4) Reporting.** The town accountant shall submit annually a report of all such special accounts to the Planning Board and Board of Selectmen for their review. The annual report shall be published in the town report and a copy submitted to the state Director of the Bureau of Accounts. A final report of the special account for a project shall be submitted to the applicant or his successor in interest.
- (5) Remedy.** Failure of an applicant to pay fees required hereunder (or any other fees required in other parts of this chapter) shall be grounds for the

Board to continue hearings, disapprove the application, refuse to release performance guarantees, revoke prior approvals, or take other action.

A. PRELIMINARY PLAN

1. GENERAL

A Preliminary Plan may be submitted by the subdivider for a residential subdivision, and shall be submitted for a non-residential subdivision, to the Planning Board and to the Board of Health and the Conservation Commission for discussion and approval, modification or disapproval by each board. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, the Board of Health and the Conservation Commission, 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. Therefore, it is strongly recommended that a Preliminary Plan be filed in each case. A properly executed application Form B (see Appendix) shall be filed with the Preliminary Plan submitted to the Planning Board.

The applicant shall file by delivery or registered mail a notice with the Town Clerk stating the date of submission for such approval of a Preliminary Plan and accompanied by a copy of the completed application Form B. (See Section II D.)

2. CONTENTS

The Preliminary Plan shall be drawn on tracing paper with pencil at a suitable scale and four (4) prints shall be filed at the office of the Planning Board and one print at the office of the Board of Health.

Said plan shall be identified as a Preliminary Plan and show all the information described under the definition of the Preliminary Plan so as to form a clear basis for discussion of its problems and for preparation of the Definitive Plan. During discussion of the Preliminary Plan, the complete information required for the Definitive Plan (Section III-B-2 Contents) and the financial arrangements (Section III B-6 Performance Guarantee) will be developed.

3. APPROVAL

The Planning Board may give such Preliminary Plan its approval, with or without modification. Such approval does not constitute approval of a subdivision. The board has 45 days in which to act on a submission. If the applicant files a Preliminary Plan for a non-residential subdivision and the board acts within 45 days or fails to act and a Definitive Plan is submitted, the Board has 90 days to take a final action. If the applicant chosen to file a preliminary plan for a residential subdivision and the Board acts within 45 days or failure to act and a Definitive Plan is submitted, the boars has 90 days to take final action. If the applicant chooses not to file a Preliminary Plan for a residential sub-division ant starts by filing a Definitive Plan, the Board has 135 days to take final action. In all cases the applicant may make a written request to extend the time.

B. DEFINITIVE PLAN

1.GENERAL

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

An original drawing of the Definitive Plan and three (3) contact prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval.

A properly executed application Form C (see Appendix).

The applicant shall file by delivery or registered mail a notice with the Monterey Town Clerk stating the date of submission for such approval and accompanied by a copy of the completed application Form C. (See Section II.D.).

At the time of filing of the definitive plan the subdivider will also file with the Board of Health two contact prints and the Conservation Commission one contact print of the definitive plan.

2.CONTENTENTS

The Definitive Plan shall be prepared by a professional civil engineer and land surveyor registered in Massachusetts and shall be clearly and legibly drawn in black India ink upon tracing cloth. The plan shall be at a scale of one inch equals forty (40) feet or such other scale as the Planning Board may accept to show details clearly and adequately. Sheet sizes shall preferably not exceed 24" x 36". If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following data:

- a. Subdivision name, boundaries, north point, date and scale.
- b. Name and address of record owner, subdivider and engineer or surveyor.
- c. Names of all abutters as they appear in the moat recent tax maps, and certified for correctness by the Clerk of the Board of Assessors.
- d. Lines of existing and proposed streets, ways, lots, easements, ant public or common areas within the subdivision. (The proposed names of proposed streets shall be shown in pencil until they have been approved by the Planning Board.)
- e. Sufficient data to determine the location, direction ant length of every street and way line, lot line and boundary line, ant to establish these lines on the ground.
- f. Location of all permanent monuments properly identified as to whether existing or proposed.

- g. Location, names and present widths of streets bounding, approaching or within reasonable proximity of the subdivision.
- h. Indication of purpose of easements.
- i. Suitable space to record the action of the Planning Board and the signatures of the members of the Planning Board (or officially authorized person).

The following three items may be submitted on the same sheet as the Definitive Plan or on separate sheets:

- j. Existing and proposed topography at a suitable contour interval if required by the Planning Board.
- k. Existing profiles on the exterior lines and proposed profile on the center-line of proposed streets at an horizontal scale of one inch equals forty feet and vertical scale of one inch equals four feet, or any other scale acceptable to the Planning Board. (All elevations shall refer to Monterey datum.)
- l. Proposed layout of storm drainage, water supply and sewage disposal systems.
- m. Location of flood hazard areas, wetlands and ground water recharge areas, if any. Any plan of a subdivision in a Flood Plain District, as delineated in the Town's Zoning By-Law, greater than ten (10) or five (5) acres, whichever is lesser, shall provide base flood elevation data.
- n. Overall plan for drainage of surface water, including plan and specification for the control of erosion and sedimentation of both temporary and permanent nature, if such controls are deemed necessary by the Planning Board.
- o. Directly above or below the layout plan of each road, a profile showing existing and proposed grades along the centerline and sidelines of that road, together with figures of elevation at the top and bottom of all even grades and at 25-foot intervals along all vertical curves. Intersecting roads shall be clearly indicated on the profile. The horizontal scale of the profiles shall be forty (40) feet to one inch and the vertical scale shall be four (4) feet to one inch. Only one road plan and profile shall be drawn on a sheet except by permission of the Planning Board.
- p. Location and species of trees intended for preservation within the road rights-of-way.
- q. Any other information pertaining to the natural characteristics of the site that may be needed in the opinion of the Planning Board or the Board of Health for determination of the suitability of the land for the purposes proposed shall be furnished at the applicant's expense.
- r. An environmental impact statement including all information in the following section.

3. IMPACT STATEMENT/EROSION CONTROL

a. IMPACT STATEMENT

Any land subdivision plan must be accompanied by an impact statement which details the probable effects of the proposed subdivision on the following matters:

1. Increases in vehicular traffic on adjacent public ways.
2. Demands on public services and utilities.
3. Attendance at public schools.
4. Changes in surface drainage in surrounding areas, including estimated increase in peak runoff caused by altered surface conditions, and methods to be used to return water to the soil.
5. The cumulative effect of sewage-disposal methods on the quality of the supplies of surface water and ground water.
6. Disturbance to other aspects of the natural ecology.

7. Harmony with the character of surrounding developments.

b. EROSION AND SEDIMENTATION CONTROL PLAN

Every land subdivision plan shall be accompanied by a plan for control of erosion and sedimentation prepared by a professional engineer, and shall include the following:

- 1. A plan map showing property lines, wetlands, stream courses, water bodies, location of areas to be stripped of vegetation, location of areas to be regraded, and contour data including existing and proposed grades.**
- 2. A schedule of operations, to show the sequence and timing of major improvement phases such as clearing, grading, paving, installation of drainage features, and the lake.**
- 3. Seeding, sodding, or revegetation plans and specifications for all unprotected or unvegetated areas.**
- 4. A map showing the location, design and timing of structural sediment-control measures, such as diversions, waterways, grade stabilization structures, debris basins, and the like.**
- 5. The calculations used in designing erosion-control structures.**
- 6. A description of procedures to be followed to maintain sediment-control measures, including the manner in which sediment removed from control structures will be disposed of.**
- 7. The performance bond required for improvements in connection with the proposed subdivision may be required to be sufficient to cover the costs of accomplishing the erosion and sedimentation control measures.**
- 8. 8) Performance standards shall conform to those described in the "Guidelines for Soil and Water Conservation in Urbanizing Areas of Massachusetts", (USDA, Soil Conservation Service, 1975).**

4. REVIEW BY BOARD OF HEALTH AS TO SUITABILITY OF THE LAND

- a. The Board of Health shall within forty-five (45) days after filing of the plan, report to the Planning Board in writing, approval or disapproval of said plan. If the Board of Health disapproves said plan, it shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons therefore in such report and, where possible, shall make recommendations for the adjustment thereof. Every 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. In such areas it shall be the responsibility of the subdivider or his agent to provide sufficient information to prove that the area for each lot is adequate to permit the installation and operation of an individual sewage disposal system (septic tank and drain field). Such information shall consist of a report of a health officer regarding seepage and other tests as may be required. The subdivider or his agent may be required to provide the necessary equipment and labor for making these tests.**

- b. **Based on the recommendation of the State Department of Public Health or the Town's Board of Health, where due to restrictive water, soil, topographic, geologic or other existing conditions, the proposed development is of a density which exceeds the sustaining capacity of the proposed lots in terms of individual sewage-disposal systems and wells on each lot, the Planning Board may require that the developer revise his plan to provide either:**
 - 1) **A consolidated water-supply system, or**
 - 2) **A consolidated sewage-disposal system, or**
 - 3) **An increase in lot size so that individual wells and sewage—disposal systems may have adequate areas in which to function properly on the same lot.**

- c. **The Board of Health may require as a condition of subdivision approval that a performance bond or deposit of money or negotiable securities be furnished by the subdivider to guarantee the construction of surface—drainage improvements recommended by the Board of Health and that all required improvements shall be made without undue erosion, siltation, or flooding of traveled ways, and without causing any condition of public nuisance through dust or surface drainage, or any act of negligence by the subdivider or his agents during the periods of construction. Such performance guarantee may be released only after completion of the work to the satisfaction of the Board of Health. In viewing possible drainage problems, the Board of Health is not limited to lots as shown on the subdivision plan, but may in appropriate cases consider areas outside the proposed subdivision.**

- d. **Land subject to flooding, and wetland areas as shown on the Monterey Zoning Map, or land deemed by the Board of Health not suitable for building sites, shall not be approved by the Planning Board for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard. Such land within the proposed subdivision shall be set aside for such uses as shall not be endangered by periodic or occasional inundation, or shall be improved in a manner satisfactory to the Planning Board and the Board of Health to remedy said hazardous condition.**

5. PUBLIC HEARING

- a. **Before approval, modification and approval, or disapproval of the definitive plan is given, a public hearing shall be held by the Planning Board, notice of the time and place of which and of the subject matter, sufficient for identification, shall be given by the Planning Board at the expense of the applicant by advertisement in a newspaper of general circulation in the Town of Monterey, once in each of two successive weeks, the first publication being not less than fourteen (14) days before the day of such hearing and by posting such notice in a conspicuous place in the Town post offices for a period of not less than fourteen (14) days before the day of such hearing, and by mailing a copy of such advertisement to the applicant and to all owners of land abutting upon the land included in**

such plan as appearing on the most recent tax list.

- b. The applicant and his engineer or surveyor shall be present at the public hearing.
- c. A hearing by the Conservation Commission may be required under the provisions of the Wetland Protection Act, Chapter 131, Section 40 of the General Laws.

6. PERFORMANCE GUARANTEE

Before the endorsement of its approval of a definitive plan of a subdivision by the Planning Board, the subdivider shall agree to complete the required improvements (construction of ways and installation of municipal services) specified in Section V for any lots in a subdivision, such construction and installation to be secured by one, or in part by one and in part by the other, of the following methods which may from time to time be varied by the applicant:

a. FINAL APPROVAL WITH BONDS OR SURETY

The subdivider shall either file a performance bond or a deposit of money or negotiable securities in an amount determined by the Planning Board to be sufficient to cover the cost of all or any part of the improvements specified in Section V not covered by a covenant under "b" hereof. Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Town Counsel and shall be contingent on the completion of such improvements within the period of time specified by the Planning Board. If the required improvements are not completed within the set period of time, the Planning Board may require an estimate of the cost of the remaining work, increase the amount of performance bond, and establish a new date for the completion of said improvements. Failure of the developer to complete the improvements within the set period of time or any extension thereof, shall not relieve the developer from his obligation to pay for increased costs for completing the improvements in excess of his performance bond.

b. FINAL APPROVAL WITH COVENANT

The subdivider shall file a covenant, executed and duly recorded by the owner of record, running with the land, whereby such ways and services as specified in Section V, not covered by bond or deposit under "a" hereof, shall be provided to serve any lot before such lot may be built upon or conveyed, other than by mortgage deed.

REDUCTION OF BOND OR SURETY

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

RELEASE OF PERFORMANCE GUARANTEE

Upon the completion of improvements required under Section V, surety for the performance of which was given by bond, deposit or covenant, or upon the performance

of any covenant with respect to any lot, the subdivider, may orally request and agree on terms of release with said Planning Board, or he may send by registered mail to the Town Clerk a written statement in duplicate that the said construction or installation in connection with such bond, deposit or covenant has been given, has been completed in accordance with the requirements contained under Section V, such statement to contain the address of the applicant, and the Town Clerk shall forthwith furnish a copy of said statement to the Planning Board. If the Planning Board determines that said construction or installation has not been completed, it shall specify in a notice sent by registered mail to the applicant and to the Monterey Town Clerk the details wherein said construction and installation fails to comply with the requirements in Section V.

Failure of the Planning Board to act on such application within forty-five (45) days after the receipt of the application by the Town Clerk, all obligations under the bond shall cease and terminate by operation of law, any deposit shall be returned and any such covenant shall become void. In the event that said forty-five day period expires without such specification, or without the release and return of the bond or return of the deposit or release of the covenant as aforesaid, the Town Clerk shall issue a certificate to such effect, duly acknowledged, which may be recorded.

Before the final release by the Planning Board of the Town's interest in a performance bond, deposit or covenant, the applicant shall file with the Board a certificate (Form F) by a registered Massachusetts professional civil engineer and land surveyor declaring that streets, storm drains and all other construction on the ground has been properly completed in accordance with plans approved by the Board.

9. CERTIFICATE OF APPROVAL

- a. **The action of the Planning Board in respect to such plan shall be by vote, copies of which shall be certified and filed with the Monterey Town Clerk and sent by delivery or registered mail to the applicant. If the Planning Board modifies or disapproves such plan, it shall state in its vote the reasons for its action. Final approval, if granted, shall be endorsed on the original drawing of the Definitive Plan by the signatures of a majority of the Planning Board (or by the signature of the person officially authorized by the Planning Board but not until the statutory twenty (20) day appeal period has elapsed following the filing of the certificate of the action of the Planning Board with the Town Clerk and said Clerk has notified the Planning Board that no appeal has been filed. After the Definitive Plan has been approved and endorsed, the applicant shall furnish the Planning Board with three (3) prints thereof.**
- b. **Final approval of the Definitive Plan does not constitute the laying out or acceptance by the Town of streets within a subdivision; nor does it indicate in any way compliance with the provisions of the Wetland Protection Act, Chapter 131 Section 40 of the General Laws."**

10. SUBMISSION OF DOCUMENTS

Easements, and bond and/or covenant, shall be submitted within 20 days from the date of approval of the Definitive Plan to the Planning Board, which then shall submit the documents to the Town Counsel for approval as to form and legality."

11. FILING OF PLANS IN REGISTRY OF DEEDS OR LAND COURT

Approval of all subdivisions is subject to the condition that, unless an appeal has been taken from such approval as provided by statute, the subdivider will record the subdivision plan in the Berkshire Southern District Registry of Deeds, or the Land Court, within six months from the date of its approval, and furnish a copy of the recorded plan to the Planning Board. If the applicant delays recording of such plan past the required six-month period, such plan shall not be accepted for recording by the Registry of Deeds or Land Court unless and until it has endorsed thereon, or recorded, therewith and referred to thereon, a certificate of the Planning Board, or the Town Clerk, dated within 30 days of such recording, that the approval has not been modified, amended or rescinded, nor the plan changed. Such certificate shall, upon application, be made by the Board or the Town Clerk unless the records of the Board or Town Clerk receiving the application show that there has been such modification, amendment, rescission or change.

IV. DESIGN STANDARDS A. STREETS

1. LOCATION AND ALIGNMENT

- a. All streets in the subdivision shall be designed so that, in the opinion of the Planning Board, they will provide safe vehicular travel. Due consideration shall also be given by the subdivider to the attractiveness of the street layout in order to obtain maximum livability and amenity of the subdivision.
- b. The proposed streets shall conform, so far as practicable, to the Master or Study Plan as adopted in whole or in part by the Planning Board.
- c. Provision satisfactory to the Planning Board shall be made for the proper projection of streets, or for access to adjoining property which is not yet subdivided.
- d. Reserve strips prohibiting access to streets or adjoining property shall not be permitted, except where, in the opinion of the Planning Board, such strips shall be in the public interest.
- e. Street jogs with centerline offsets of less than one hundred twenty five (125) feet should be avoided.
- f. The minimum centerline radii of curved streets shall be one hundred (100) feet. Greater radii may be required for principal streets.
- g. Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than sixty (60) degrees.
- h. Property lines at street intersections shall be rounded or cut back to provide for a curb radius of not less than thirty (30) feet.

WIDTH

- a. The minimum width of street rights-of-way shall be fifty (50) feet. Greater width shall be required by the Planning Board when deemed necessary for present and future vehicular travel.

GRADE

- a. Grades of roads shall be not less than 0.5%. Grades for major streets shall not average more than 6% over any 500' section and shall not exceed 8% at any point. Grades for minor streets shall not average more than 10% for any 500' section and shall not exceed 12% at any point. The grade of a road within 50' of a road intersection shall not exceed 1% to provide a level area for traffic safety.

DEAD-END STREETS

- a. Dead-end roads shall not be longer than 500 feet, unless, in the opinion of the Planning Board, a greater length is necessitated by topography or other local conditions.
- b. Dead-end streets shall be provided at the closed end with a turn-around having outside roadway diameter of at least (100) one hundred feet and a property line diameter of at least one hundred (115) fifteen feet.
- c. At the end of a dead—end road, the board may require the reservation of an easement 20 feet wide to provide for the continuation of pedestrian traffic and/or utilities.

5. ENERGY CONSERVATION

To the maximum practicable extent, the road layout and traffic pattern shall be such as to facilitate building orientation for maximum solar access and to minimize travel distances for both residents and service vehicles.

B. EASEMENTS

1. Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary and shall be at least twelve (12) feet wide.
2. Where a subdivision is traversed by a water course, drainage way, channel or stream, the Planning Board may require that there be provided a storm water easement or drainage right—of—way of adequate width to conform substantially to the lines of such water course, drainage way, channel or stream and to provide for construction or other necessary purposes.

C. OPEN SPACES

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

D. PROTECTION OF NATURAL FEATURES AND HISTORIC SITE

Due regard shall be shown for all natural features and historic sites, such as large trees, wildlife, stone walls or fences, water courses, scenic points, historic spots and similar community assets which, if preserved, will add attractiveness and value to the subdivision and preserve a town asset. The developer shall make every attempt to adapt his subdivision to the site with the minimum of cutting and filling operations, and shall take

whatever protective measures are needed to control erosion, siltation and flooding along drainage ways and adjacent lands."

V. REQUIRED IMPROVEMENTS FOR AN APPROVED SUBDIVISION

A. ROADS AND RIGHTS-OF-WAY

1. 1. The entire area of each road right-of-way shall be cleared of all stumps, brush, roots, boulders, like material, and all trees not intended for preservation. No trees may be preserved within eight feet of the edge of the traveled way.
2. The full length and width of the traveled way shall be excavated or filled, as necessary, to a depth of at least 15 inches below the finished surface as shown on the profile, where paving is to be applied; or to a depth of at least 12 inches below the finished surface as shown on the profile, where the surface will be gravel. However, if the soil is soft and spongy, or contains undesirable material such as clay, sand pockets, peat or any other material detrimental to the subgrade, such material shall be removed and replaced with suitable well-compacted material.
3. All parts of the traveled way shall have a base consisting of at least 12 inches of well-compacted gravel to a width of at least 24 feet, to be located centrally within the road right-of-way. At each side there shall be a shoulder, also consisting of well-compacted binding gravel at least 12 inches deep.

The gravel base shall consist of two layers. The first layer shall be eight inches thick, after compaction, and shall contain no stones larger than four inches in any dimension, and shall meet the gradations of subsection M 1.03.0 in the Massachusetts Department of Public Works "Standard Specifications for Highways and Bridges," 1973 edition. The top layer shall be four inches thick, after compaction, and shall be processed gravel meeting the specifications of subsection M 1.03.1 of the DPW's "Standard Specifications" aforementioned.

Each layer of gravel shall be rolled with a self-propelled roller weighing not less than 10 tons, and shall be compacted to the satisfaction of the Town Road Superintendent or other agent designated by the Planning Board.

4. For major roads and for all roads in subdivisions with 10 or more lots, or the potential for such development, roads shall be paved to a width of at least 24 feet in the following manner: Over the completed gravel base specified above, a bituminous concrete mixture shall be applied by a paving machine in two courses consisting of a binder or base course 1.5 inches thick after compaction, followed by a surface coat 1.5 inches thick after compaction. All the paving is to be in conformity with the Massachusetts Department of Public Works specifications for Type I-1 bituminous concrete, both in quality of materials and methods of application. In no case shall the paving be laid until the gravel base has been compacted and written approval of the completion of the base has been signified by the Town Road Superintendent or other agent designated by the Planning Board.
5. For minor roads, depending upon probable traffic and proposed road grades, the Planning Board will consider proposals for road surfaces other than

bituminous concrete for all roads or for portions of roads. For a road serving only several lots, a graveled way prepared as in the above section could be deemed adequate by the Board. For roads serving as many as nine lots, alternate surfacing such as tar-and-grits, cold-mix asphalt or other low-dust and low-maintenance treatments will be considered by the Board upon preparation of appropriate technical data, subject however to approval and supervision of installation by the Town Road Superintendent or agent designated by the Board. The provisions of Section V.A.3 shall prevail for all subdivision roads whether paved or unpaved.

The subdivider shall repair any settlement or imperfections in the work done under Sections V.A.3, V.A.4, and V.A.5 during a period of one year from the date of final installation of paving or other surfacing.

B. SURFACE DRAINAGE..PUBLIC UTILITIES IN FLOOD PLAIN DISTRICTS

1. Adequate disposal of surface water shall be provided. Catch basins and culverts shall be built in conformity with specifications of the Selectmen on both sides of the roadway on continuous grades at intervals of not more than 400 feet, at low points and sags in the roadway, and near the corners of the roadway at intersecting streets.
2. The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist previous to, or as a result of, the subdivision. Such drainage facilities shall be located in the street right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be designed so as to prevent any erosion, siltation or flooding of traveled ways or adjacent property.
3. A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The Selectmen or the Highway Superintendent shall approve the design and size of the culvert or facility based on anticipated runoff from a "10-year storm" under conditions of total potential development permitted by the Zoning By-law in the watershed.
4. The subdivider's engineer shall also study the effect of each subdivision on the existing downstream drainage facilities outside the area of the subdivision; this study shall be reviewed by the Selectmen or the Highway Superintendent. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload any existing downstream drainage facility, or cause erosion, siltation or flooding, the Planning Board shall not approve the subdivision until provision has been made for the improvement of said condition.
5. Any proposed subdivision in a Flood Plain District, as delineated in the Zoning By-law, shall be designed to provide adequate drainage and minimize any potential flood damage. Public utilities and facilities in flood-hazard areas shall be so located and constructed as to minimize or eliminate flood damage and avoid impairment from flood waters.

C. UTILITY WIRES

- 1. All utility wiring and cables for television signals, as well as transformers and other distribution and control devices, shall be buried in the ground unless, in the opinion of the Planning Board, estimates made by utility companies indicate that an unreasonable cost would be imposed on the subdivider.**
- 2. Cables and utility wires, other than those going across roads and those leading directly to individual installations, shall be buried within the road right-of-way in a strip 4 1/2 feet wide running parallel to the edge of the right-of-way, unless soil or terrain require a different location. No wires or cables may be installed under the traveled portion of the right-of-way except where crossing a road, and there ducts must be used.**
- 3. Copies of plans showing the location of all buried pipes, wires and cables are to be presented by the subdivider before any paving of roads is started, one copy to be filed with the Planning Board, one with the Town Clerk, and one with Selectmen.**
- 4. If underground installation is found by the Planning Board to be unreasonably costly to the developer, all overhead cables and wires and related equipment shall be centered as much as possible on the rear or side lot lines, unless this provision is waived by the Board. Easements shall be provided as outlined in Section IV B.**

D. MONUMENTS

- 1. Permanent monuments shall be installed at all road intersections, at all points of change in the direction or curvature of roads, and at other points where, in the opinion of the Planning Board, permanent monuments may be necessary.**
- 2. The permanent monuments shall be of granite, marble, 3,000 psi reinforced concrete, or will be a 3/4 inch pipe and shall measure 8' x 6" x 6" or be a similar length iron pipe and shall have a suitable reference marker on the top of each.**
- 3. No permanent monuments shall be installed until all construction that would destroy or disturb them is completed. The tops of monuments shall be set to the established grades, and backfill material shall be carefully placed around each monument and thoroughly tamped.**

E. ROAD-NAME SIGNS

Posts with signs carrying the names of roads or other ways shall be installed at the beginning of all new ways and at the intersection of all ways whether existing or proposed within a subdivision. There shall be at least one such sign and sign post at each intersection. Said signs and sign posts shall follow the specifications of the Selectmen.

F. SIDEWALKS AND CURBING

The Planning Board may require construction of curbing and sidewalks on one or both sides of the streets in accordance with specifications of the Selectmen.

G. WORK STANDARDS

Unless otherwise specified, all the work and the materials used in the work to be done under these regulations shall conform to the requirements of "The Commonwealth of Massachusetts Department of Public Works Standard Specifications for Highways, Bridges and Waterways", as most recently amended.

H. GRADING AND CONSTRUCTION PERMIT

Prior to the commencement of any work in a subdivision involving grading of land, construction of ways, or removal of ground cover, the subdivider or his agent shall file with the Planning Board an application for a Grading and Construction Permit, Form G.

I. INSPECTIONS

The Planning Board shall be notified by the subdivider prior to the commencement of each of the major phases of construction; and as each phase is completed, it shall be inspected and approved by the Planning Board prior to starting work in the succeeding phase. The Planning Board, in cooperation with the Selectmen, may designate the Town Highway Superintendent or any other qualified person as inspector for the construction done under these regulations, including the inspection of control measures employed and their effectiveness for the prevention of erosion and siltation. At its discretion, the Planning Board may retain a qualified engineer or other qualified consultant to inspect and to oversee the fulfillment of all provisions in these Rules and Regulations, the expense thereof to be borne by the subdivider, whether applying to construction of ways or to other provisions of these Rules and Regulations.

J. SHADE TREES

Unless at least two shade trees per 100' of lot frontage, of species recommended by the Conservation Commission and having a diameter of at least three inches at a point one foot above the finished grade, exist and can be preserved either within the road right-of-way or within 20 feet of the edge of the right-of-way, the subdivider shall procure and plant at least two nursery-grown shade trees per 100' of lot frontage within 20 feet of the edge of the right-of-way, said trees to be species recommended by the Conservation Commission and measuring at least three inches in diameter at a point approximately four feet above the root collar. The subdivider shall be responsible for maintenance of planted trees and replacement of those which have died or become diseased from the time of planting through one full growing season.

K. TOPSOIL, GRADING, DRAINAGE DITCHES

Topsoil shall be placed to a depth of four inches and thoroughly compacted on side slopes within the road right-of-way and over land exposed during grading operations. Grading shall be done carefully to avoid unnecessary damage to existing vegetation. Except when necessary to conform to road, driveway and

drainage standards or to eliminate blind intersections or poor sight lines at curves, major earth movements shall be avoided. Drainage ditches wherever possible shall be graded to resemble natural streams. Topsoil shall not be removed from the site except where so authorized by the Planning Board.

L. SEEDING

To prevent erosion, shoulders and graded slopes shall be seeded on completion or planted with shrubs or similar approved landscape treatment recommended by the Conservation Commission. Seed and planting specifications shall be in accordance with Section H-3 of the Standard Specifications for Highways and Bridges of the Commonwealth. All new planting within the street right-of-way shall be with good nursery stock and will be subject to inspection after one year. Trees, shrubs or grass found by the Board to be dead or in an unsatisfactory condition within one year from the time of planting may be required to be replaced by the developer.

M. SIDE SLOPES

The slope of the area from right-of-way line to the finished grade of abutting lots shall not be greater than at the rate of one foot vertical to two feet horizontal. Wherever the approved street grade differs substantially from the grade of adjacent land or where otherwise necessary for public safety, the developer shall be required to erect retaining walls or guard rails of a type and size approved by the Planning Board.

N. CLEAN-UP

The entire area of the subdivision must be cleaned up so as to leave a neat and orderly appearance, free from debris and other objectionable materials. The subdivider shall be responsible for providing thoroughly clean and unsilted storm-drain lines within the subdivision.

O. FIRE PROTECTION

The applicant shall provide the board with a fire protection plan for the entire development. The plan shall conform to the requirements of the Monterey Fire Department and the standards of the National Fire Protection Association as most recently revised. Improvements required by the approved fire protection plan shall become part of the performance guarantee.

VI. ADMINISTRATION

A. VARIATION

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

B. REFERENCE

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

C. BUILDING PERMIT

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

- END -

(See Appendix for Sample Forms)

*** * * SUBDIVISION REGULATIONS --date-- * * ***
APPENDIX

(Sample Forms)

Form A - Application for Approval Not Required

**Form B - Application for Approval of Preliminary Plan Form C -
Application for Approval of Definitive Plan Form D - Covenant**

Form E - Covenant Release

Form F - Certificate of Performance

Form G - Application for Grading and Construction Permit