

SECTION 2

GENERAL

A. Definitions

For the purpose of these Rules and Regulations, the following words and terms used herein are hereby defined as follows:

Abutter An owner or owners of property, which has (a) one or more boundaries or parts thereof, in common with the property being subdivided or, (b) has frontage in whole or in part directly opposite any portion of the property being subdivided or, (c) is deemed by the Planning Board to be affected by the proposed subdivision of land.

Applicant A person who applies for approval of a plan of a subdivision or who applies for a determination that approval is not required. The applicant (or applicants) shall be the owner (or owners) or the duly authorized agent or representative of the owner(s), or his or their assigns of all land included in the subject request for action before the Planning Board. If a plan for a subdivision of land is to be submitted by one representing to be the agent or assign of an owner, a notarized certificate shall be submitted, signed by the owner, authorizing the person filing the plan to act as agent or assign and the agent or assign shall also file sufficient documentation to explain the nature and extent of his own actual or potential interest in the land.

Board The Planning Board of the Town of Hingham.

Dead End Street A street, or network of streets, whether existing or proposed, which has only one public access from the remainder of the community street network. For the purpose of this definition, the length of the dead-end street shall be the sum of the lengths of all roadways beyond the limit of multiple access.(see also Sections 4,B.,(1),(d) and 4,B.,(4),(a).

Definitive Plan The plan of a subdivision as submitted (with appropriate application) to the Board for approval, in its entirety, to be recorded in the Registry of Deeds or filed with the Recorder of the Land Court when approved by the Board.

Department's Specifications The Standard Specifications for Highways and Bridges of the Massachusetts Highway Department, dated 1988 including all revisions thereto.

Department's Standards The Construction Standards of 1977 of the Massachusetts Highway Department, and all revisions thereto.

Developer Same as "Applicant".

Engineer A Registered Professional Engineer as defined in Chapter 112 of the General Laws, Section 81-D, as qualified in Chapter 112, Section 81-J and 81-M.

General Laws The General Laws of the Commonwealth of Massachusetts, with all additions thereto and amendments thereof. (Abbreviated G.L.)

Land Surveyor A Registered Professional Surveyor as defined in Chapter 112 of the General Laws, Section 81-D, as qualified in Chapter 112, Section 81-J and 81-M.

Lot An area of land in one ownership, with definite boundaries, used, or available for use, as the site of one or more buildings or for any other definite purpose.

Utility Services Sewers, surface and subsurface water drains, water pipes, fire hydrants, gas pipes, oil pipes, steam lines, electric lines or ducts, telephone lines or ducts, fire alarm cables and boxes, CATV, street lights, and their respective appurtenances, or other similar facilities.

Owner The person holding the ultimate fee simple title to a tract, parcel, or lot of land, as shown by the record in the Plymouth Registry of Deeds or Plymouth Registry of Probate. A certified copy of such record shall accompany any application.

Person An individual, two or more individuals, partnership, corporation, association, society, or any entity recognized by the General Laws, having common or undivided interests in a tract of land. Person shall also include, to the extent allowed by the General Laws, agents, administrators, executors, heirs, devisee, successors, and assigns.

Preliminary Plan A plan of a proposed subdivision or resubdivision 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 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 dimensions; (g) the names, approximate location and widths of adjacent streets; (h) and the topography of the land in a general manner.

Print A reproduction of an original drawing - dark line on white background.

Private Local Street A Private Local Street is a way approved as a Definitive Subdivision that serves no more than three lots. All lots must access off of the way. The way is not intended to be accepted as a public way and the decision of the Board shall contain such a condition, which condition shall be included in the deed conveying each lot within the subdivision. No further subdivision of any lot within a subdivision created by a Private Local Street is allowed. Section 4. B. of these Regulations further describes Private Local Streets.

Roadway A portion of a way which is designed and prepared for vehicular traffic.

Site A portion of a lot, tract or parcel of land provided for the location of a building, with the necessary or convenient amount of land adjacent to such building used or to be used in connection with such building.

Street A public way, a way approved under Subdivision Control Law, or a way having in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide for the proposed use of the land abutting thereon or served thereby, (major, secondary, minor and limited residential streets are defined in Section 4,B. of these Regulations).

Subdivision The division of a tract of land into two or more lots and as further defined in Section 81-L, Chapter 41, G.L.

Subdivision Control Law Sections 81K to 81GG, inclusive of Chapter 41 of the General Laws and any acts in amendment thereof.

Way A way shall be the full strip of land designated as a way or street as distinguished from the roadway.

B. Administration

No plan shall be deemed to have been submitted to the Board until said plan, together with all application forms, fees and other items as required and executed as specified herein has been delivered in person to the Board at a meeting thereof, or by registered mail to the Planning Board by the owner of the land involved or his authorized agent. If so mailed, the date of receipt shall be the date of submission of the plan. (For matters not covered by these Rules and Regulations, reference is made to Sections 81-K to 81-GG, inclusive, Chapter 41, G.L.)

C. Certification of Plans

All definitive plans submitted to the Board shall include a certification as to their conformance in every respect, with these Rules and Regulations and as to the validity of their content executed by a person registered in the Commonwealth of Massachusetts as a land surveyor or professional engineer or both as required by the Board. If the Plan fails to comply in any respect with these Rules and Regulations, then the definitive plans must be accompanied by a list, certified by said land surveyor or engineer, setting forth each and every Regulation with which the Plan does not comply, the location and nature of the noncompliance, and the reason therefor. The Board suggests that the owner be represented at any meeting with the Board by the person responsible for the design of the subdivision and the preparation of the plans.

D. Format

All information submitted to the Planning Board shall be typewritten.

E. Waiver of Compliance

Strict compliance with the requirements of these Rules and Regulations may be waived when, in the judgment of the Board, such action is in the public interest, and not inconsistent with the Subdivision Control Law. The application for approval of a definitive plan must be accompanied by a written request for waiver of strict compliance with these Rules, identifying with particularity the regulation sought to be waived, the nature and location of the waiver sought, and a demonstration certified by the applicant's surveyor or engineer that such waiver is consistent with each of the purposes set forth in Section 1,B. of these Rules and Regulations.

F. Fee Regulations

(1) Purpose

These regulations and fees schedules have been adopted to produce a more equitable schedule of fees which more accurately reflects the costs of technical and legal review of applications to the Planning Board; to take advantage of the procedures offered by G.L. c. 44, s. 53G; to establish a review procedure in the selection of consultants; and to promote more informed decision-making by the Planning Board.

(2) Fee Structures and Regulations

(a) General. The Planning Board shall impose reasonable fees for the review of applications that come before it. The Planning Board may impose Administrative Fees and Project Review Fees as may be applicable to the types of applications set forth below.

(b) Form of Payment. All Administrative and Project Review Fees shall be paid by bank or certified check.

(3) Administrative Fees

(a) Applicability. An Administrative Fee shall be assessed to offset the expense of processing and review with regard to all applications set forth in Section 3(c), below.

(b) Submittal. Administrative Fees shall be submitted at the time of the submittal of the application. Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.

- (c) Schedule of Administrative Fees. The following schedule applies to the types of applications to the Planning Board set forth below. This schedule supersedes all previous schedules as they may have appeared in the Rules and Regulations for the Subdivision of Land

| APPLICATION FEE SCHEDULE AND SUBMISSION REQUIREMENTS | | | |
|---|------------------------------------|--|---|
| PERMIT TYPE | PERMIT FILING FEE | NUMBER OF PLAN COPIES REQUIRED | PEER REVIEW FEES (for Approval Phase only) |
| APPROVAL NOT REQUIRED (ANR / FORM A) | \$250 plus \$250 per buildable lot | 1 Mylar 6 Copies Electronic Submission | \$0 |
| PRELIMINARY SUBDIVISION | \$500 | 8 Sets | \$0 |
| DEFINITIVE SUBDIVISION | \$2,000 | 14 Copies | As estimated by Peer Review Engineer and approved by Applicant per MGL 44, S. 53G |
| LOT RELEASE | \$250 per lot | NA | \$0 |
| INSPECTION FEE | \$16 per linear foot | NA | Supplemental Fee as needed and determined by DPW, and Approved by Applicant |
| SUBDIVISION MODIFICATION | \$1,000 | 14 Copies | As estimated by Peer Review Engineer and approved by Applicant per MGL 44, S. 53G |

- (d) Fee Waivers. The Planning Board may waive or reduce any Administrative Fee, if, in the opinion of the Board, unusual circumstances exist regarding the subject property or the applicant.
- (e) Refund. Once the review process has been commenced, the Planning Board shall not refund Administrative Fees, including in the case of withdrawal of the application by the applicant.
- (4) **Project Review Fees**
- (a) Applicability. In addition to an Administrative Fee, the Planning Board shall impose a Project Review Fee on those applications which require, in the judgment of the Planning Board, review by outside consultants due to the size, scale, or complexity of a proposed project, the project's potential impacts, or because the Town lacks the necessary expertise to perform the review work related to the permit or approval. In hiring outside consultants, the Board may engage engineers, planners, lawyers, designers, or other appropriate professions able to assist the Board and to

ensure compliance with all relevant laws, ordinances, by-laws and regulations. Such assistance may include, but shall not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decisions or regulations, or inspecting a project during construction or implementation.

- (b) Submittal. Project Review Fees shall be submitted at the time of the submittal of the application for deposit in an account established pursuant to G.L. c. 44, s. 53G ("53G Account"). Any application filed without this fee shall be deemed incomplete and no review work shall commence until the fee has been paid in full.
- (c) Project Review Fees. The project review fee is as estimated by peer review engineer and approved by the town planner. The Applicant may appeal the selection of the outside consultant to the town board of selectmen. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. Where more than one type of application has been submitted for Planning Board action, only the largest of the applicable Project Review Fees shall be collected for deposit into the 53G Account, and not the sum of those fees. If a project requires peer review from experts in more than one discipline the applicant is responsible for the peer review fees from those experts.
- (d) Replenishment. When the balance in an applicant's 53G Account falls below twenty-five percent (25%) of the initial Project Review Fee, as imposed above, the Planning Board shall consider whether to require a supplemental Project Review Fee to cover the cost of the remaining project review.
- (e) Inspection Phase. After granting of a Definitive Plan approval, the Planning Board will require a Supplemental Project Review Fee for the purpose of ensuring the availability of funds during the inspection phase of the review process, as follows: five dollars (\$5.00) times the number of linear feet of proposed or reconstructed ways within or without the subdivision.
- (f) Handling of Project Review Fees. The Project Review Fee is to be deposited into a special account as set forth in G.L. c. 44, s. 53G.
 - (i) Outside consultants retained by the Planning Board to assist in the review of an application shall be paid from this account.
 - (ii) Project Review Fees shall be turned over to the Town Accountant by the Planning Board for deposit into a 53G Account.

(iii) Confirmation of the establishment of the 53G Account shall be forwarded from the office of the Town Accountant to the Planning Board office as soon as it is received for timely and accurate accounting.

(iv) The Town Accountant shall prepare a report on activity in the 53G Account on an annual basis. This report shall be submitted to the Planning Board and Selectmen for their review. This report shall also be printed in the Annual Report for the Town.

(v) An accounting of an applicant's funds held in the 53G Account may be requested by the applicant at any time. The Planning Board shall respond to the request in a timely fashion.

(vi) An applicant may request an estimate of bills pending from consultants for work completed, or in progress, but not yet invoiced.

(vii) Excess fees in the 53G Account, shall be returned to the applicant or the applicant's successor in interest, at the conclusion of the review process, as defined below. For the purpose of this section, any person or entity claiming to be an applicant's successor in interest shall provide the Board with documentation establishing such succession in interest.

Conclusion of the Review Process

(1) With the approval or disapproval of a Preliminary Subdivision Plan.

(2) With the disapproval of a Definitive Subdivision Plan.

(3) With the release of the performance bond at the end of construction of an approved Definitive Subdivision Plan.

(4) With the final inspection or the approval or disapproval on all other types of applications under the Zoning By-Law, which ever comes later.

(6) Delinquent Accounts.

The following rules apply to fees owed to the Planning Board by applicants:

(a) Consequences. Projects with accounts past due will be notified by the Planning Board. If no payment has been received after 30 days, the Board reserves the right to stop work on any project with past due accounts.

(b) Costs of Collection. All costs of collection associated with past due accounts shall be borne by the applicant.

- (c) Current Delinquents. All applicants owing fees to the Planning Board at the time of any amendment to these provisions of the regulations shall be sent the following:
 - (i) A duplicate notice of the amount past due.
 - (ii) A copy of the applicable sections of these regulations with all amendments clearly indicated.
 - (iii) Notice of a 30-day grace period before the commencement of any changes in interest rate or charges.

(7) Revision of Fee Schedules and Regulations Governing Fees.

The Planning Board may review and revise its regulations and fee schedules, from time to time, as it sees fit.

- (a) Amendments shall be preceded by a public hearing.
- (b) Any new regulations or alterations to the fee schedule shall take effect upon filing a copy of the amendments with the Town Clerk.

G. Separability

If any section, paragraph, sentence, clause or provision of these Regulations shall be adjudged not valid, the adjudication shall apply only to the material so adjudged, and the remainder of these Regulations shall be deemed valid and effective.

H. Amendments

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