



# **SUBDIVISION REGULATIONS**

***CITY OF LEBANON, NEW HAMPSHIRE***

**ADOPTED: MAY 13, 1991**

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## **SECTION 1 – AUTHORITY**

The Lebanon Planning Board adopted these Subdivision Regulations pursuant to the authority contained in the New Hampshire Revised Statutes Annotated, Title LXIV, including but not limited to, 674:35 (Power to Regulate Subdivisions), 674:36 (Subdivision Regulations), and 676:4 (Boards' Procedures on Plats), to govern the subdivision of land in the City of Lebanon.

## **SECTION 2 – PURPOSE**

These Regulations are adopted for the following purposes:

1. To protect and provide for the public health, safety and general welfare of the City.
2. To guide the future growth and development of the City in accordance with the Master Plan.
3. To provide for adequate light, air and privacy, to secure safety from fire, flood and other danger, and to prevent overcrowding of the land and undue congestion of population.
4. To protect the character and social and economic stability of all parts of the City and to encourage the orderly and beneficial development of all parts of the City.
5. To protect and conserve the value of land throughout the City and the value of buildings and improvements upon the land and to minimize the conflicts among the uses of land and buildings.
6. To guide public and private policy and action in order to provide adequate and efficient transportation, water, sewage, schools, parks, playgrounds, recreation and other public requirements and facilities.
7. To provide the most beneficial relationship between the uses of land and buildings and the circulation of traffic throughout the City, having particular regard to the avoidance of congestion in the streets and highways, and the pedestrian traffic movements appropriate to the various uses of land and buildings and to provide for the proper location and width of streets and building lots.
8. To establish reasonable standards of design and procedure for subdivisions, and to further orderly layout and use of land; and to ensure proper legal descriptions and the monumenting of subdivided land.
9. To ensure that public facilities are available and will have a sufficient capacity to serve the proposed subdivision.
10. To prevent the pollution of air, streams and ponds; to assure the adequacy of drainage facilities; to safeguard the water tables; and to encourage the wise use and management of resources throughout the City in order to preserve the integrity, stability, and beauty of the community and the value of land.

11. To preserve the natural beauty and topography of the City and to ensure appropriate development with regard to these natural features.
12. To provide for open spaces through the most efficient design and layout of the land, including the use of average density in providing for minimum width and area of lots, while preserving the density of land as established in the Zoning Ordinance of the City.

### **SECTION 3 – COMPLIANCE**

No subdivision plans shall be approved unless such plan complies with all applicable local ordinances, regulations, and state and federal requirements, including but not limited to the Zoning Ordinance, the Building Code, Site Plan Review Regulations, Ordinance 16-A Water Investment Fee, and Ordinance 61, "Public Utilities Ordinance of the City of Lebanon, New Hampshire."

### **SECTION 4 – TITLE**

These Regulations shall be known and cited as LEBANON SUBDIVISION REGULATIONS.

### **SECTION 5 – DEFINITIONS**

In general, for purposes of these Subdivision Regulations, the meaning of terms used herein shall be as defined in the Lebanon Zoning Ordinance and the Lebanon Site Plan Review Regulations, unless a different definition appears in this Section.

**Abutter.** 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 or as otherwise defined in RSA 672:3.

**Applicant.** The owner of record of land to be subdivided or the agent of any such owner.

**Board.** The Planning Board of the City of Lebanon.

**Boundary Line Agreement.** An agreement between two landowners as to the location of a common boundary which is shown on a plan to be recorded in the Registry of Deeds.

**Building Envelope.** The area of a lot in which a building or structure is proposed to be placed. A Building Envelope may be larger than the actual footprint of a building to allow for choice in placement on a lot.

**Certified Soil Scientist.** A person qualified in soil classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.

**Certified Wetland Scientist.** A person qualified in wetlands classification and mapping who is certified by the State of New Hampshire Board of Natural Scientists.

**City Engineer.** The Engineer for the City of Lebanon.

**City Manager.** The Manager for the City of Lebanon.

**Cul-de-sac.** A street with only one vehicular access which terminates in a turnaround area, typically of a circular or “T” shape (hammerhead).

**Driveway.** An area used, or modified for use, as a site for vehicular access onto a Class IV, V, or VI public highway from any land which is not a public highway, or for access onto a private right-of-way which has been dedicated as a street by being shown on a subdivision plat approved by the Planning Board and recorded with the Grafton County Registry of Deeds. A driveway includes any entrance, exit, or approach, all areas or structures within the limits of the highway right-of-way or dedicated right-of-way which are used or modified for driveway purposes, and any portions of the abutting non-highway land whose use for driveway purposes may affect the function or safety of the public highway or right-of-way, or of the driveway areas within the said highway or right-of-way. The term includes all driveways, whether or not established under a permit issued by the City, whether established before or after the adoption of the City’s Driveway regulations, and whether established before or after the highway became a public highway. The Planning Board may approve common driveways serving no more than two adjacent lots, and in such cases any private easement area created for purposes of the common driveway shall not be deemed a 'right-of-way' for street purposes under these regulations, and need not be excluded from the dimensions of the lot(s) over which it passes.

**Easement.** A right of use which one party or the public may have in the land of another, normally, but not limited to, a strip of land used or intended to be used for a water or wastewater line, other utility, driveway or sidewalk, or for conservation purposes.

**Lot.** A single unit or parcel of land in the same ownership throughout, with ascertainable boundaries and undivided by a street.

**Maintenance Security Agreement.** A secured agreement from the Applicant to the City for the purpose of securing the Applicant's obligation to remedy any defect in any improvement to be transferred to the City. In addition, a Maintenance Security Agreement shall secure the Applicant's obligation to maintain all streets, sidewalks, and/or utilities in the subdivision until such streets, sidewalks, and/or utilities are accepted by the City. A Maintenance Security Agreement, when required, shall be secured by the same types of security as are acceptable for a Performance Security Agreement under Section 14.6 of these Regulations.

**Major Subdivision.** Any division of land which results in four (4) or more lots, plats, building sites, or other divisions of land, or which requires new streets, utilities, or public improvements. (See also the definition of “Subdivision” below)

**Minor Lot Line Adjustments.** An exchange or annexation of land or moving of the common boundary(ies) between two or more abutting lots where no new lots are created.

**Minor Subdivision.** Any division of land which results in no more than three (3) lots, plats, building sites, or other divisions of land, each fronting on an existing Class IV or V highway, and not involving any new street or extension of municipal facilities nor the creation of any public improvements. (See also the definition of “Subdivision” below)

**Performance Security Agreement.** A secured agreement from the Applicant to the City for the purpose of securing to the City the Applicant's obligation for actual construction and installation of all improvements required by the Board as a condition of approval of the Final Plat.

**Planning Director.** The Director of Planning and Zoning for the City of Lebanon, or his or her designee.

**Planning Office.** The Planning Division within the Department of Community Development and Preservation for the City of Lebanon. The Planning Office is the Administrative Office for the Planning Board.

**Plat.** The map or plan on which the subdivision, minor lot line adjustment, or boundary line agreement is shown.

**Right-of-Way.** A strip of land occupied or intended to be occupied by a street. The usage of the term "right-of-way" for land platting purposes in these Regulations shall mean that every right-of-way hereafter established and shown on a recorded plat is to be separate and distinct from the lots and parcels adjoining such right-of-way and not be included within the dimensions or areas of such other lots or parcels. Right-of-way as herein described does not include Driveway.

**Roadway.** The traveled surface of a road including the shoulders on each side or from curbface to curbface.

**Slope.** The change in elevation expressed as a percentage. Slope is calculated by dividing the vertical change in elevation (rise) over a given horizontal distance (run) multiplied by 100 percent.

**Soil Type.** As defined in the most current USDA Natural Resource Conservation Service County Soil Maps.

**Street.** A public right-of-way which the City or State has the duty to maintain regularly, including a Class IV or V highway, or a public or private right-of-way shown on a subdivision plat approved by the Planning Board and recorded with the Grafton County Registry of Deeds, which provides the principal means of access to abutting property(ies).

**Subdivision.** The definition of this term shall be as provided in RSA 672:14, as set forth below:

- A. "Subdivision" means the division of the lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.
- B. The division of a parcel of land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision under this title.
- C. The grant of an easement in gross to a public utility for the purpose of placing and maintaining overhead and underground facilities necessary for its transmission or distribution network such as poles, wires, cable, conduit, manholes, repeaters and



supporting apparatus, including any unstaffed structure which is less than 500 square feet, shall not be construed as a subdivision under this title, and shall not be deemed to create any new division of land for any other purpose.

- D. The rent, lease, development, or grant of an easement to a person for the purpose of placing and maintaining a wireless communications facility shall not be construed as a subdivision under this title, and shall not be deemed to create any new division of land for any other purpose. For purposes of this paragraph, "wireless communications facilities" means any towers, poles, antennas, or other unstaffed structure of less than 500 square feet intended for use in connection with licensed transmission or receipt of radio or television signals, or any other licensed spectrum-based transmissions or receptions. This paragraph shall not be deemed to affect other local zoning, site plan, or regulatory authority over wireless communications facilities.

**Subdivision Agreement.** The agreement signed by the City Manager or designee and the Applicant containing the decision of the Board, and setting forth the obligations of the Applicant.

## **SECTION 6 – JURISDICTION**

### **6.1 Subdivision.**

These Regulations shall apply to the subdivision of land within the boundaries of the City of Lebanon. The definition of a subdivision shall be as provided in RSA 672:14, and is intended to give the Planning Board the most comprehensive jurisdiction as permitted under state law.

The Board also has jurisdiction over Minor Lot Line Adjustments and Boundary Line Agreements.

### **6.2 Exceptions**

- A. Subdivision review shall not be required for building development consisting of more than one (1) building erected on a lot in single ownership in a commercial, industrial, institutional, or mixed-use zoning district including, but not limited to, a shopping mall or industrial park.

### **6.3 Condominium Conversion.**

When land and existing buildings under single ownership are proposed to be converted into a condominium form of ownership, and where no physical changes to the property are proposed, subdivision approval shall be required, but the Planning Board's involvement shall be limited to such review as it deems necessary to ensure that the underlying existing use of the property will not be materially altered by the conversion. If the Board determines that, due to the specific facts of the case, the effect of the conversion will be to materially alter the nature or intensity of the use of the property, then full review under these Regulations shall be required.

## **SECTION 7 – PLANNING BOARD PROCEDURES**

### **7.1 Purpose**

The purpose of this section is to set forth the procedure for Planning Board review and action on applications for subdivision approval. The procedure is intended to facilitate the orderly and expeditious processing of such applications. The more specific procedures for the types of applications described in Sections 8, 9, and 10 of these Regulations shall be in addition to the procedures set forth in this section.

### **7.2 Fees**

The Planning Board has established, and from time to time may amend, a schedule of fees, which is hereby attached to these Regulations and made a part hereof. Also see Section 7.7.F of these Regulations, regarding additional review fees.

### **7.3 Conceptual Review**

- A. For any subdivision, the Applicant may request an informal review by the Board, to be conducted in general terms, of the basic concept of the proposed subdivision. The Applicant may end this conceptual review at any time. Public notice of the conceptual review is not required, but such reviews shall only take place at a formal meeting of the Board. Such conceptual review shall not bind either the Applicant or the Board in any manner, and statements made by Board members shall not be the basis for disqualifying said members or invalidating any action taken.

While a conceptual review is optional, it is strongly recommended, particularly for Major Subdivisions, as it can help identify and resolve issues at an early stage and save the Applicant the time and cost of changes at a later date.

- B. Not less than two weeks before the date of the scheduled conceptual review, the Applicant shall provide the Board with a written project description, a written statement addressing how the concept conforms with the Master Plan, and a sketch map based on a United States Geological Survey Map, or similar map of sufficient accuracy and quality, showing the following:
1. Existing boundary lines of the lot(s) under review;
  2. General topography, to include a highlight of slopes in excess of 25%;
  3. Prominent natural features of the site, including, but not limited to: tree lines, watercourses, floodplains, and wetlands;
  4. The conceptual location and size of proposed lots, building envelopes, roadways, and open space areas, and;
  5. Any other major issues or conceptual improvements which the Applicant wishes to discuss with the Board.

- C. The conceptual review shall be directed at review of the basic concept of the proposal and suggestions which might be of assistance in resolving problems with meeting requirements during Final Plat Review. The Board and the Applicant may discuss proposals in conceptual form only and in general terms such as desirability of types of development and proposals under the Master Plan.

- 1. Master Plan Review:

The conceptual plan shall be reviewed by the Planning Board by consulting the Master Plan, its accompanying maps, diagrams, charts and descriptions, and other appropriate documents, to determine if the area is generally suitable for development and to analyze how well the proposed subdivision meets the goals and objectives of the City.

The Board shall consult the future land use map and any plans for existing or future City roads, utilities, and facilities, and open space to determine how well the proposed subdivision conforms with the Plan's pattern of growth.

The Board shall focus on the characteristics of the site of the proposed subdivision and its relationship to the surrounding area to determine how well the proposed subdivision fits into both the natural and man-made environments. The Board, in its review of the conceptual plan, shall look for any indication of areas of historical, cultural, or environmental importance which should be considered. The Board may also advise whether a proposed subdivision should be delayed until public services have been extended or infrastructure upgraded as set forth in the Master Plan.

#### **7.4 Procedure When Approvals from ZBA Are Required and City Council Approval for Extension of City Utilities**

- A. When approvals from the Zoning Board of Adjustment (ZBA), including variances, special exceptions, or any other approval are required by the Zoning Ordinance, the Applicant shall obtain such ZBA approvals before any Minor Lot Line Adjustment/Boundary Line Agreement application, Minor Subdivision application, or Final Major Subdivision application shall be deemed complete by the Planning Board. (An Applicant may submit requests for Conceptual Review and Design Review of a Preliminary Major Subdivision before receiving ZBA approval.) Any conditions imposed by the Zoning Board of Adjustment shall not be diminished by any requirements by the Planning Board under these Regulations. The condition which imposes the greater restriction or higher standards shall be controlling.

Any Minor Lot Line Adjustment/Boundary Line Agreement application, Minor Subdivision application, or Final Major Subdivision application submitted prior to submission for necessary ZBA approvals shall not be accepted by the Planning Office. The determination of whether a ZBA approval is required shall be made by the Zoning Administrator, whose decision may be appealed to the ZBA pursuant to Section 801.1 of the Zoning Ordinance.

- B. When approvals are required under applicable City Ordinances from the City Council or the City Manager for the extension of or connection to the existing City water system and/or City wastewater system, such approvals shall be obtained before an application for Final Major Subdivision Review shall be deemed complete by the Planning Board. Any Final Major Subdivision application submitted prior to requesting such Council approval shall not be accepted by the Planning Office.

## **7.5 Determination of Potential for Regional Impact**

Upon receipt of an application for development, the Board shall review the application promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact, pursuant to RSA 36:54, et seq. Doubt concerning regional impact shall be resolved in a determination that the development has the potential for regional impact.

A development of regional impact means any proposal, which, in the determination of the Board, could reasonably be expected to affect a neighboring municipality because of factors such as, but not limited to, the following:

- A. The relative number of dwelling units as compared to existing stock. Any proposal that involves 50 or more residential lots or units shall be deemed to have the potential for regional impact;
- B. The relative size of the development. Any proposal that involves 50,000 square feet or more of new non-residential gross floor area shall be deemed to have the potential for regional impact;
- C. The proximity of the development to the borders of a neighboring community.
- D. High intensity traffic impact on regional transportation networks;
- E. The anticipated emission of excessive light, noise, smoke, odors, or particulates;
- F. The proximity of the development to aquifers or surface water, which transcend municipal boundaries.
- G. The impact on shared facilities, such as schools and solid waste disposal facilities.

The Board may, in its discretion, determine that any project has the potential for regional impact, whether or not the project meets or exceeds the criteria listed above and shall identify the affected municipality(ies).

## **7.6 Notice for Hearings and Meetings and Continuances**

Whenever notice is required, the Board shall give notice as follows:

- A. The notice shall include a general description of the proposed Subdivision, Minor Lot Line Adjustment, or Boundary Line Agreement that is the subject of the

application; shall identify the Applicant and the location of the subdivision; and the day, time, and place of the public hearing or public meeting.

- B. Notice shall be sent by certified mail to the Owner; Applicant, if different from Owner; Abutters; Holders of conservation, preservation, or agricultural preservation restrictions (as defined under RSA 477:45) on the subject property; the holders of easements, rights-of-way, and other restrictions; and every engineer, architect, land surveyor, or soil or wetlands scientist whose seal appears on any plan submitted to the Board; and any other persons required by RSA 676:4, I(d). The names and mailing addresses shall be furnished by the Applicant.
- C. Notice shall be mailed at least 10 days prior to the public hearing or public meeting. For the purpose of these Regulations, in counting days, the day on which the Notice is given and the day of the public hearing or public meeting shall be excluded.
- D. Notice to the general public shall be given by one publication in a local newspaper of general circulation at least ten (10) days prior to the public hearing or public meeting.
- E. The applicant shall erect a sign along each principal frontage of the lot or project site, as determined by the Planning Office, providing notice of the impending action. Such sign shall be of a design, size, and color approved by the Planning Office in order to maximize visibility of the sign and to call attention to its purpose. At a minimum, the sign shall include the applicant's name, the project type, the project location, and the time, date, and location of the public hearing on such actions, and instructions for contacting the Planning Office for further information on the action. Any sign required by this section shall be erected at least 10 days prior to the hearing on such matter, and shall be kept in good repair by the applicant (as determined by the Planning Office) until the date and time of the last hearing notified by the sign. The lack of proper signage shall not be deemed to be insufficient notice of hearing unless the Board finds, based on a recommendation by the Planning Office, that the applicant has not made a good faith effort to keep the required sign(s) posted and in good repair, in which case the Board may, at its discretion, continue the hearing to a later meeting to permit time for additional notice by such reasonable means as the Board may specify.

As provided by law, any public meeting or public hearing for which Notice was required and provided may be continued without additional Notice. The Board shall announce at the prior meeting or hearing that such meeting or hearing shall be continued to a fixed day, time, and place. For a continuance, the records of the Board must contain a statement that such announcement was made and include also the day, time, and place when the continued meeting/hearing is to be held.

## **7.7 Review for Complete Application**

All required application materials shall be submitted as a single inclusive package, including any appropriate waiver requests as permitted by these Regulations. Submission of a complete application package ensures that the review process by the City is as efficient and effective as possible.

- A. Applications shall contain sufficient information to enable the City Staff and the Planning Board to evaluate the application for compliance with the Zoning Ordinance, the Planning Board's Regulations, and other applicable City Codes and for the Planning Board to make an informed decision.

All applications submitted pursuant to these Regulations shall include the following required information:

1. A properly completed and signed application form.
2. The appropriate fees as established by the Board's fee schedule.
3. A written project description.
4. A list of the name(s) and address(es) of all persons to be notified by certified mail in accordance with RSA 676:4, I(d), including the following:
  - a. The Applicant(s);
  - b. The Owner(s) of record of the subject property(ies);
  - c. The Owners of abutting properties;
  - d. Every surveyor, engineer, architect, soil scientist, or wetlands scientist whose professional seal appears on any plan or document submitted to the Board.
  - e. All persons holding conservation, preservation, or agricultural preservation restrictions (as defined under RSA 477:45) on the subject property. (NOTE: When there are no such restrictions on the subject property, the Applicant shall provide a definitive statement to that effect.)
  - f. The holders of any easements, rights-of-way, or other restrictions on or over the subject property. (NOTE: When there are no such easements, rights-of-way, or other restrictions on the subject property, the Applicant shall provide a definitive statement to that effect.)

In addition to the items listed above, a complete application shall address or consist of the documents and information required by these Regulations depending upon the type of application (for example, Section 8.2 for a Minor Lot Line Adjustment or Boundary Line Agreement, Section 9.5 for a Minor Subdivision, or Section 10.4 for a Major Subdivision).

- B. For submission requirements which the Applicant wishes the Board to waive, the Applicant shall provide waiver requests in accordance with Section 7.15 of these Regulations in lieu of providing the information or documents.

The Applicant shall submit a completed checklist form, provided by the City, indicating that all information has been submitted and any appropriate waivers have been requested.

- C. An application for Subdivision review shall be filed with the Planning Office no later than 12 Noon of the second Monday of the month (or the following business day if the office is closed) for hearing on the second Monday of the following month, on forms designated by the Planning Office. The Applicant shall pay, in advance, all applicable fees, including the costs of notice to abutters. Failure to pay such fees shall render the application incomplete.

The purpose of the above filing deadline is to provide adequate time for City review under Paragraphs D and E below. Submission of any altered, additional, or substitute application materials required by these Regulations, subsequent to the filing deadline set forth in this paragraph, other than as directed by City Staff, shall cause the application to be deemed untimely filed, and such application shall not be heard until a subsequent month.

- D. Review by the Planning Office:

The Planning Office shall review the application for completeness pursuant to the requirements of these Regulations. If the Planning Office finds that the application is complete, or lacks only those items or documents for which waiver requests have been submitted, then the Planning Office shall make a preliminary determination of whether the waiver requests meet the standards of Section 7.15 of these Regulations, and if so, shall recommend to the Board acceptance of the application for review.

If the Planning Office finds that the application is not complete or that one or more of the waiver requests do not meet the standards of Section 7.15, the Planning Office shall so advise the Applicant, who can elect to complete the missing submission requirements. Missing submission requirements, including any necessary waiver requests, shall be delivered to the Planning Office by close of business on the fourth Monday of the month (or the following business day if the office is closed) for submission to the Board the following month. Submission of additional or revised materials by this date is necessary to ensure that the City Staff has adequate time to review application materials and to prepare a staff report, as needed, for each application listed on the Board's agenda.

If the Applicant elects not to complete the missing requirements or fails to deliver all missing submission requirements prior to the deadline as described above, the Planning Office shall recommend that the Board deem the application incomplete. Prior to acting on the recommendation, the Board shall give the Applicant a reasonable opportunity to be heard on the limited issue of completeness.

- E. Review by the Planning Board

The Board shall, at its next regular meeting or within 30 days following receipt of an application, determine if the submitted application is complete according to its Regulations and shall vote upon its acceptance. Only applications accepted by

the Board as sufficiently complete to invoke jurisdiction shall be reviewed at a public hearing.

When an application is submitted to the Board for acceptance as a completed application sufficient to invoke jurisdiction, public notice shall be sent in accordance with Section 7.6 of these Regulations. The notice may provide that, in the event that the application is accepted as complete, the public hearing on the application may commence at the same meeting. In the event that the Board deems the application incomplete, the public hearing for the application shall be cancelled.

F. Additional Fees:

The Board shall have the right to require that the Applicant pay necessary and reasonable fees, in addition to the fees described in Section 7.2 above, sufficient to cover the City's expenses for the costs of investigative studies, review of documents, extraordinary or unusual legal expenses, and other matters that may be required by particular applications.

Before imposing such additional fees upon an Applicant, the Board shall determine what special investigative studies, review of documents, extraordinary or unusual legal expenses, or other matters are required for the application. The Board, by motion, shall determine the necessity of the additional review and shall provide the Applicant with an estimated cost for such additional review. The Board shall require the Applicant to pay the amount of estimated fees to the City in advance. Failure to pay the additional review fee shall result in disapproval of the application for lack of adequate information. If the estimate of the additional fees is less than the actual cost, then the Board shall send the Applicant a description and the reasons for the additional cost. The Applicant shall then pay the total actual costs. If the estimate of the additional fees is greater than the actual cost, the difference shall be refunded to the Applicant.

In the event that it is necessary for the City to take legal action against an Applicant to collect unpaid fees, the City shall be entitled to an award of reasonable attorney's fees incurred in the collection of the unpaid amount.

**7.8 Action by the Board:**

Upon determination by the Planning Board that a submitted final Application is complete according to the Subdivision Regulations, the Planning Board shall begin formal consideration and shall act to approve, conditionally approve, or disapprove within 65 calendar days of the date of such determination, subject to extension by request of the Board to the City Council for an extension not to exceed an additional 90 calendar days, or waiver by the Applicant, in writing, and consent to such extension as may be mutually agreeable. RSA 676:4,1(f).

Upon failure of the Board to approve, conditionally approve, or disapprove the application within the 65-day period, the City Council shall, upon request of the Applicant, immediately issue an order directing the Board to act on the application within 30 calendar days of the date of the order.



If the Board does not act on the application within that 30-day time period, then within 40 calendar days of the issuance of the order, the City Council shall certify on the Applicant's application that the plat is approved pursuant to RSA 676:4, I(c), unless within those 40 calendar days the City Council has identified, in writing, some specific subdivision regulation or zoning or other ordinance provision with which the application does not comply. The certification by the City Council pursuant to RSA 676:4,I(c) shall constitute final approval for all purposes, including filing and recording under RSA 674:37 and 676:18, and court review under RSA 677:15.

## **7.9 Notice of Action on the Plat:**

For the purposes of these Regulations, the date of action by the Board is equivalent to the date of the Board's vote for approval, approval with conditions, or disapproval of the Subdivision plat.

The Board shall notify the Applicant, in writing, by means of a Notice of Action, sent by certified mail, of its actions on the Plat. The Notice of Action shall be derived from the final approved minutes of the Board and shall be sent to the Applicant within 10 days of the minutes receiving final acceptance. In case of disapproval, the Board shall clearly set forth in the Notice of Action the reasons for disapproval, with specific reference to standards contained in these Regulations, which shall become part of the records of the Board.

- A. In case of approval, the Notice of Action shall set forth the following:
1. A description of the approved subdivision plan, minor lot line adjustment, or boundary line agreement, indicating title, date of the plan and the last revision date, project number, and preparer of the plan;
  2. A description of all specific conditions required by the Board, which are in addition to the general requirements of these Regulations, and the requirement of substantial conformity with the specifications of the approved plan;
  3. A description of any modifications or waivers granted by the Board pursuant to Section 7.15 of these Regulations;
  4. A description of any requirements for off-site improvements and impact fees, as provided in Section 12.4 and 12.5;
  5. A description of land, if any, to be dedicated for widening existing streets and/or providing sidewalks;
  6. All agreements, if any, between the Applicant and the Board concerning matters not required by these Regulations, but to be performed by the Applicant;
  7. In the case of conditional approvals, a designation of which conditions, if any, must be met prior to the approval becoming final (conditions precedent) and whether or not a public hearing shall be required under RSA 676:4, I(i) to determine if the condition(s) have been met;

8. A reminder of the time limits set forth in Section 7.12 of these Regulations, and where appropriate, any additional time parameters, such as deadlines within which particular conditions must be fulfilled, the threshold levels of work which shall constitute “Active and Substantial Development or Building” or “Substantial Completion” as set forth in Section 14.1.B of these Regulations for purposes of RSA 674:39, or a phased development timetable pursuant to Section 7.13 of these Regulations.
  9. Any other provisions deemed necessary by the Board.
- B. For Major Subdivisions, the Notice of Action shall, unless waived by the Board pursuant to Section 7.15 of these Regulations, include the requirement that the Applicant sign a Subdivision Agreement, prepared by the Planning Office, incorporating the terms and conditions of the Notice of Action as well as other provisions as follows:
1. A requirement that all streets, regardless of whether such streets are to be dedicated and accepted by the City, shall be constructed in accordance with applicable requirements of the City.
  2. A requirement that all water lines and wastewater lines, regardless of whether such water and wastewater lines are to be dedicated and accepted by the City, shall be constructed in accordance with applicable requirements of the City.
  3. A requirement that the Applicant shall include a statement in any contract documents for the construction of required improvements that such required improvements must be built and constructed according to City requirements whether or not any or all of the improvements are intended to be transferred to the City for ownership and maintenance.
  4. A requirement, if applicable, that the Applicant shall pay to the City an amount equal to the reasonable cost of inspection of the required improvements.
  5. A statement that, in the event any or all of the improvements are to be transferred to the City for ownership and maintenance, that the Applicant, shall be responsible for repairing all latent defects for a period of eight (8) years from the date of Substantial Completion as set forth in RSA 508:4-b. In the event that the Applicant conveys or transfers the project, the subsequent owner(s) shall be responsible for the obligations of the Applicant for the remainder of the eight (8) year period, regardless of whether or not such obligation is expressly assumed.

#### **7.10 Performance Security Agreement:**

In lieu of the completion of the improvements required by the Planning Board, in order to enable the recording of the Final Plat prior to completion of such improvements, the Board shall accept a Performance Security Agreement providing for and securing to the

City the completion of the actual construction and installation of all such required improvements and utilities. The Performance Security Agreement shall be in an amount and form approved by the City and in conformity with the requirements of RSA 674:36, III and Section 14.6 of these Regulations. The Applicant shall be liable for the entire actual cost of constructing and installing all improvements required by the Board regardless of the amount of the Performance Security Agreement. The Applicant may request a public hearing before the Board, with notice as provided in Section 7.6 of these Regulations to be paid for by the Applicant, regarding any issue relating to the form and adequacy of the security.

### **7.11 Recording of Final Plat:**

When the required improvements have been completed in accordance with the Notice of Action, or upon acceptance of security for the construction and installation of such required improvements (see Section 14), the Applicant shall present the Final Plat for signature by the Chairperson of the Planning Board and recording in the Grafton County Registry of Deeds.

The Applicant shall submit to the Board two (2) mylar copies of the approved Final Plat. Sheet sizes shall be in accordance with the requirements of the Grafton County Registry of Deeds. Space shall be reserved on the Plat for endorsement by the Chairperson or other person designated by the Board. The Final Plat shall contain the following statement:

"The Subdivision Regulations of the City of Lebanon and the Notice of Action are a part of the Plat, and approval of this Plat requires the completion of all the requirements of the Notice of Action and said Subdivision Regulations excepting only any modification or waiver set forth in the Notice of Action."

The Planning Office shall cause one copy of the Final Plat and the Notice of Action to be recorded in the Grafton County Registry of Deeds with all necessary recording fees to be paid by the Applicant. The Planning Office shall deliver the second copy to the City Assessing Department for its records. All graphic material and presentations shall be on that surface of the mylar Plat which is suitable for writing. The act of recording an approved subdivision Plat shall not in itself constitute acceptance by the City of any street, utility, or easement shown thereon.

### **7.12 Time to Record Plat and Extensions:**

- A. No sale or transfer of any lots, plats, sites, or other divisions of land within the subdivision may be entered into until the approved subdivision Plat has been recorded in the Grafton County Registry of Deeds.
- B. The Board's approval of a Final Plat shall be considered void unless all conditions precedent have been met, and the Plat has been recorded in the Registry of Deeds, within two (2) years from the date of the Notice of Action; however the Planning Board, for good cause, may specify in the original Notice of Action some alternative time limit for recording. The voiding of an approval under this paragraph shall terminate the vesting of the application against changes in regulations, as set forth in RSA 676:12, VI and RSA 674:39.

- C. Notwithstanding paragraph B above, the Board may grant an extension of up to two (2) additional years beyond the original expiration date. A request for such an extension must be submitted by the Applicant to the Planning Office prior to such expiration date, and requests for extension of the subdivision approval received after the expiration date will not be considered by the Board. An extension may be granted only after a public hearing with notice as provided in Section 7.6.
- D. In determining whether to grant such an extension, the Board shall consider the totality of the circumstances, including the extent and complexity of the conditions precedent, the extent of the progress made by the Applicant toward satisfying the conditions-precedent and/or starting construction, and whether the need for more time is attributable to unusual circumstances beyond the control of the Applicant, rather than to the Applicant's neglect or failure to proceed with reasonable promptness. The Board shall indicate in its minutes the reason(s) for its decision on an extension request under this Section. The Board shall grant no more than one extension for any Subdivision, unless it determines, based on legal advice, that such extension is required in order to prevent a violation of constitutional rights.
- E. For applications subject to both Site Plan and Subdivision review, expiration of Board approvals shall occur as set forth in these Subdivision Regulations. For approved phased developments, the deadlines for each phase, as stated in the approved phasing schedule, shall be substituted for the two-year limitation period set forth above. Any request for an extension of time for a particular phase, as described in Section 7.13 of these Regulations, shall only apply to the particular phase, and such extension shall not automatically apply to any later phases of the development.

### **7.13 Phased Development**

The Board may require, or an Applicant may request permission for, construction of the proposed subdivision in phases. If the Board requires or permits phased development, the review and approval procedure shall be as follows:

- A. For purposes of these Regulations, “phased development” shall mean a project which is approved to be constructed in phases over a total period of time which may be in excess of the time limits set forth in Section 7.12 and 14.6 of these Regulations or those in RSA 674:39. Phased development may also include a project for which the Planning Board has imposed a phasing requirement pursuant to Sections 501.1(D) or 502.2(D) of the Zoning Ordinance, or otherwise, in order to mitigate the impact of a development on community facilities, services, or utilities.
- B. If the Board requires or permits phased development, the development shall be reviewed and approved as a whole under these Regulations, and shall be treated as a whole for purposes of applying all development review standards, criteria and submission requirements.
- C. The Applicant shall submit with the application a proposed phasing schedule, which, if approved by the Board, shall be included as part of any approval. The phasing schedule shall include the following information for each phase:

1. A specification of all improvements, on-site or off-site, to be installed as part of that phase;
2. A deadline for the posting of any required security for that phase;
3. A deadline for the completion of such improvements subsequent to the posting of such security, and;
4. A date by which the Final Plat for that phase must be recorded to prevent the approval for that phase from being considered void pursuant to Section 7.12 of these Regulations.

The phasing schedule may also specify threshold levels of work and time lines which must be completed, in order for the project, as a whole, or particular phase(s) of the project, to be considered “vested” pursuant to RSA 674:39, and the New Hampshire common law of vested rights.

The approval for a particular phase shall not be considered “final” under RSA 676:4, I(i), nor shall any plan of that phase be recorded in the Grafton County Registry of Deeds, until the security for the improvements which are part of that phase has been properly posted with the City or until such required improvements have been completed, inspected, and approved by the City.

- D. In determining whether to grant an applicant's request for phased development, or to approve a proposed phasing schedule, the Board may consider the totality of the circumstances, including but not limited to the following factors:
1. The extent to which review of the development in its totality is logical and reasonable due to the degree to which the proposed phases are well-integrated, both as to their use and development scheme, and as to common infrastructure and other improvements, by contrast with a series of superficially-related projects which could just as effectively be reviewed individually;
  2. The degree to which the integration of the phases, as described above, would make private investment in such improvements unlikely without the predictability of a phased approval.
  3. The extent to which phasing will benefit the City by mitigating and making more predictable the impacts of the complete development upon community facilities, services, utilities and other City goals as set forth in the Master Plan.
  4. The extent to which the proposed phasing schedule represents a realistic timeline for active and substantial development progressing at a steady pace, in light of the type and complexity of the project as a whole, rather than an attempt to maintain "vesting" during significant periods of non-development;

5. The total length of time proposed, and the degree of unpredictability or Board uncertainty involved, with respect to whether a later phase or phases will continue to meet current regulations at the time of construction, and in light of potential changed conditions which might occur in the meantime within the neighborhood or the City as a whole.
- E. Prior to recording the Final Plat for each later phase, the applicant shall submit to the Planning Director a copy of the Final Plat. The Planning Director shall then determine whether the development is in accordance with the approved phasing schedule, and whether required security for that phase has been provided to the City.

If the development is proceeding in accordance with the approved phasing schedule, the later phase(s) shall be presumed to be “vested” against changes in City land use ordinances and regulations, except as otherwise specified by the Board as part of its approval. However, the Planning Director may determine that, due to specific circumstances, including but not limited to non-compliance with applicable regulations or conditions of approval, a later phase or phases should not be considered “vested” under RSA 674:39 or the New Hampshire common law of vested rights. In such a case, the Planning Director may forward to the Planning Board a recommendation to initiate proceedings, using the procedures of RSA 676:4-a as applicable, to revoke approval of a phase or phases.

- F. If the applicant anticipates being unable to meet any time deadline(s) set forth in the approved phasing schedule with respect to any phase, he or she may apply to the Planning Board for an extension of up to two (2) years for the particular phase, pursuant to Section 7.12 of these Regulations. The request for an extension shall be submitted to the Planning Office prior to the expiration of the deadline(s) involved.

If the applicant fails to meet any such deadline, or extension thereof, then the approval of that phase and any subsequent phases shall be considered void, and such phase(s) shall no longer be presumed “vested.” However, the applicant may resubmit the application for such phase(s) to the Board for further review and re-approval in light of changes in ordinances, regulations, or other material circumstances which have occurred in the City of Lebanon since the original approval.

#### **7.14 Permission to Visit Property**

- A. For the City to effectively and efficiently review development applications, City Staff and members of the Planning Board must have the ability to enter a property that is the subject of an application.
- B. Submission of an application for Minor Subdivision or Design Review or Final Plat Review of a Major Subdivision shall be deemed as the granting of permission for City Staff, Lebanon Planning Board members, and others attending the public hearings, to enter onto the property for purposes of review, during orderly visits, subject to reasonable notice. It shall be assumed that this permission is extended

until the Board has acted to formally approve or disapprove an application. If for any reason an Applicant wishes to place some limitation upon such access, the Applicant shall so inform the Planning Office at the time of submission of the development application.

- C. The property owner retains all rights to withdraw permission to enter onto the property at any time. However, such a withdrawal of permission prior to the completion of the Subdivision Review process may result in the Board's disapproval of the application for lack of sufficient information.

### **7.15 Waiver of Regulations**

Upon written request from the Applicant, the Planning Board may, at its discretion, waive or modify any part of these Regulations, other than those regulations required by State law. The basis for any such waiver or modification granted by the Board shall be recorded in the minutes of the Board. The Board may only grant a waiver or modification of these Regulations if the Board finds, by majority vote, that:

- A. Strict conformity would pose an unnecessary hardship to the Applicant and waiver would not be contrary to the spirit and intent of the regulations; or
- B. Specific circumstances relative to the subdivision, or conditions of the land in such subdivision, indicate that the waiver will properly carry out the spirit and intent of the regulations.

All written requests for waiver or modifications of these Regulations shall address items A and/or B above, depending on which criteria are being relied upon to justify the request.

For waivers from a submission requirement, when the Planning Board accepts an application as sufficiently complete to invoke jurisdiction and commence review pursuant to Section 7.7 of these Regulations, it makes a tentative finding that the above criteria have been met. If, during the course of its review, the Planning Board determines that the waived information is necessary to complete its review, then the Applicant shall provide that information.

## **SECTION 8 – MINOR LOT LINE ADJUSTMENTS OR BOUNDARY LINE AGREEMENTS:**

### **8.1 Procedure for Review**

The following procedure shall apply to applications for Minor Lot Line Adjustments or Boundary Line Agreements, which do not create buildable lots. Unless otherwise ordered by the Board, an application for Minor Lot Line Adjustments or Boundary Line Agreements, which do not create buildable lots, shall be considered and acted upon at a public meeting without a public hearing.

- A. Notice shall be provided in accordance with Section 7.6 of these Regulations.
- B. The Board shall review the application and determine if the proposal is a Minor Lot Line Adjustment or Boundary Line Agreement.

- C. Any abutter or holder of conservation, preservation, or agricultural preservation restrictions may be heard on the application upon request at the public meeting when the matter is discussed by the Board. If deemed necessary, the Board may continue its consideration to another date and time to allow further abutter participation.
- D. Upon approval of the application, the Applicant shall provide two (2) mylar copies of the Final Plat to the Board for recording in accordance with Section 7.11 of these Regulations.

## **8.2 Submission Requirements**

A complete application for Minor Lot Line Adjustment or Boundary Line Agreement approval shall include those items listed in Section 7.7 of these Regulations as well as the following:

- A. Paper copies of the proposed plat (the number to be determined by the Planning Office on an as-needed basis). Plans shall be submitted on sheets no larger than 24" x 36" and shall include the following information:

- 1. The name of the City and County in which the subdivision is located, a Locus map, north point, scale, date of the plat, and the date and description of any revisions.

NOTE: The date on the plat at the time of the initial submission to the City for application review shall be included on all subsequent submissions to the City. Any subsequent change to the plat shall include a revision date and description of the revision.

- 2. The names and mailing addresses of the Applicant(s); the Owner(s) of record of the subject properties; the Owners of abutting properties, including tax map and lot number references; and the Holders of any easements, rights-of-way, or other restrictions, based on the current records of the City Assessor available at City Hall, not more than 5 days before the filing of the application.
- 3. The name and business address of the surveyor, including license number and seal, and of every engineer, architect, soil scientist, or wetlands scientist whose professional seal appears on any plan or document submitted to the Board.
- 4. The zoning district(s) in which the subject lots are located, including district boundaries if in more than one district.
- 5. The location of all existing structures on the subject lots.
- 6. A site location map showing the original boundaries of the subject lots and adjacent lots.



7. The new surveyed property line(s) as a result of the Minor Lot Line Adjustment or Boundary Line Agreement, including bearings and distances, as determined by an actual field survey certified by a licensed land surveyor and bearing the date of the completion of the survey. All dimensions shall be shown in feet and decimals thereof. The areas of the altered lots shall be shown in square feet and acres. Surveys shall utilize the NH State Plane Coordinate system, unless prior approval to use an alternate coordinate system is granted by the Planning Office.
  8. The plat shall be titled to include the names of the owners of all lots altered by the Minor Lot Line Adjustment or Boundary Line Agreement.
  9. A statement shall be placed on the plat as follows:
 

“This plan shows Minor Lot Line Adjustments / Boundary Line Agreements and does not require the approval of the Lebanon Planning Board as a subdivision.”
- B. A digital copy of the plat (.PDF format) shall be provided depicting the information required under Paragraph A above.
  - C. Any request(s) for waiver(s) or modification(s) pursuant to Section 7.15 of these Regulations.

## **SECTION 9 – MINOR SUBDIVISION**

### **9.1 Procedure for Review**

The Minor Subdivision process requires the submission and review of a complete application as set forth in Sections 7.7 and 9.5 of these Regulations. Review of the Minor Subdivision shall follow the applicable procedures set forth in Section 7 of these Regulations.

### **9.2 Expansion of Procedures**

If, in the judgment of the Board, the subdivision, as presented, requires more extensive review in order to assure the consistency of the development with the spirit and intent of these regulations, or in order to more fully review and evaluate a particular type of potential impact within the scope of these Regulations, then the Board shall require the subdivision to be reviewed as a Major Subdivision.

### **9.3 Standards**

All Minor Subdivisions shall conform to the applicable standards set forth in Sections 12 and 13 of these Regulations. In addition, the Minor Subdivision shall not adversely affect any lot or lots which may be subject to future subdivision, nor any adjoining property.

### **9.4 Restriction on Further Subdivision**

The following statement shall be placed on the Minor Subdivision plat:

“A parcel of land which has been reviewed and approved as part of a minor subdivision shall not be eligible for further subdivision under the Minor Subdivision procedures for a period of three (3) years from the date of the minor subdivision approval.”

## **9.5 Submission Requirements**

A complete application for Minor Subdivision approval shall include the items listed in Section 7.7 of these Regulations as well as the following:

- A. Paper copies of the proposed plat (the number to be determined by the Planning Office on an as-needed basis.) Plans shall be submitted on sheets no larger than 24" x 36". Plan sets with multiple pages shall include sheets of uniform size and be bound on the left edge. When more than three (3) sheets are required, an additional cover sheet of the same size shall be attached including a table of contents. The scale of the plans shall be appropriate to the size of the overall development. All lettering shall be of a size and type that is legible.

Minor Subdivision plans shall include the following information:

1. The name of the City and County in which the subdivision is located, a Locus map, north point, scale, date of the plat, and the date and description of any revisions. If a cover sheet is provided, the date of the plat and the date(s) of any subsequent revisions shall be shown on the cover sheet.

NOTE: The date on the plat at the time of the initial submission to the City for application review shall be included on all subsequent submissions to the City. Any subsequent change to the plat shall include a revision date and description of the revision.

2. The names and mailing addresses of the Applicant(s); the Owner(s) of record of the subject property(ies); the Owners of abutting properties, including tax map and lot number references; and the Holders of any easements, rights-of-way, or other restrictions, based on the current records of the City Assessor available at City Hall, not more than 5 days before the filing of the application.
3. The name and business address of the surveyor, including license number and seal, and of every engineer, architect, soil scientist, or wetlands scientist whose professional seal appears on any plan or document submitted to the Board.
4. The zoning district(s) in which the subdivision is located, including district boundaries if in more than one district.
5. The boundary lines of the overall tract, and for each of the proposed lots, including bearings and distances, as determined by an actual field survey certified by a licensed land surveyor and bearing the date of the completion of the survey. Surveys shall utilize the NH State Plane Coordinate system, unless prior approval to use an alternate coordinate

system is granted by the Planning Office. All dimensions shall be shown in feet and decimals thereof. Referenced on the plat shall be monuments as required under Section 13.5(A) of these Regulations.

6. The areas of all proposed lots in square feet and acres.
7. The location of all existing structures, easements, permanent and intermittent watercourses, flood plains and wetlands, rock outcrops, wooded areas, and other significant existing features on the property. The plan shall indicate those natural features that are to be removed, retained, or altered.

NOTE: Wetlands on the property, if any, shall be delineated by a Certified Wetlands Scientist, whose seal and signature shall appear on the plat.

8. Map of Entire Tract: If the application covers only a part of the Applicant's entire holding, a map of the entire tract shall be drawn at a scale of not smaller than four hundred (400) feet to the inch showing all existing streets and an outline of the platted area.
- B. A digital copy of the Subdivision plat (.PDF format) shall be provided depicting the information required under Paragraph A above.
- C. The following supporting documents and information:
1. Proposed Covenants: Such proposed covenants or deed restrictions as may be intended to apply to the property in whole or in part to be recorded in the Registry of Deeds.
  2. Soil Tests: Where private individual wastewater systems are proposed, the Applicant shall perform soil tests complying with requirements of Section 13.4 of these Regulations. For all proposed lots less than five (5) acres in size, the Applicant shall have a soil investigation made and a report prepared to establish the existence of at least 4,000 square feet of contiguous area meeting New Hampshire Department of Environmental Services (NHDES) requirements. NHDES approval of all subdivision lots less than five (5) acres in size shall be obtained and a copy of such approval shall be provided to the Board prior to the recording of the approved plat. The soil maps and information shall be in accordance with the most current USDA Natural Resource Conservation Service County Soil Maps. Maps prepared by field investigation shall be stamped by a Certified Soil Scientist. All costs of preparing soil data shall be borne by the Applicant.
  3. Access Driveway To State Highway: Any access driveway to a State highway shall be approved by the New Hampshire Department of Transportation (NHDOT) and provided to the Board prior to the recording of the approved plat.

4. Other Approvals: Approvals, as prescribed by law, from any other City agency which may have jurisdiction, including but not limited to wetland permits (see Section 7.4).
5. Any request(s) for waiver(s) or modification(s) pursuant to Section 7.15 of these Regulations.

## **SECTION 10 – MAJOR SUBDIVISION**

### **10.1 General Standards**

- A. The procedures of Section 7 of these Regulations shall be followed for the review a Major Subdivision. The review of a Major Subdivision involves the following steps:
  1. A Conceptual Review, as outlined in Section 7.3 of these Regulations (optional).

NOTE: While a Conceptual Review is optional, it is strongly recommended, particularly for Major Subdivisions, as it can help identify and resolve issues at an early stage and save the Applicant the time and cost of changes at a later date.
  2. Design Review of a Preliminary Layout (required).
  3. Final Plat Review (required).
- B. All Major Subdivisions shall conform to the applicable standards set forth in Sections 12, 13, and 14 of these Regulations.
- C. A complete application addressing or consisting of the documents and information required under Sections 7.7 and 10.4 of these Regulations shall be required for Design Review and Final Plat Review of Major Subdivisions.

### **10.2 Design Review of a Preliminary Layout**

For any Major Subdivision, the Applicant shall submit to the Planning Office a Preliminary Layout of the proposed subdivision for Design Review by the Board. Design Review shall involve the review of more specific design and engineering details, beyond conceptual and general discussions; provided, however, that Design Review may only proceed after proper notice in accordance with Section 7.6 of these Regulations, as required by RSA 676:4, II(b).

- A. Design Review shall be separate and apart from formal consideration of an application for Final Plat Review and the time limits for Board action as set forth in Sections 7.7 and 7.8 of these Regulations and RSA 676:4, I(c) shall not apply until an application for Final Plat Review is submitted.

- B. Design Review shall not bind either the Applicant or the Board in any manner, and statements made by the Board members shall not be the basis for disqualifying said members or invalidating any action taken.
- C. Upon acceptance of a complete application for Design Review, the Board shall conduct a review of the preliminary subdivision layout at a public hearing with notice in accordance with Section 7.6 of these Regulations. The Board may solicit comments from abutters and other interested persons as it deems appropriate. The Board shall review the preliminary subdivision layout for conformance to all applicable standards set forth in Sections 12 and 13 of these regulations.
- D. After Design Review of the Preliminary Layout, the Board shall prepare, in writing, its Findings and Determinations with respect to the proposed subdivision with regard to the following general requirements: Section 12.1 (Character of Land); Section 12.2 (Open Space and Recreation Area); Section 12.3 (Premature or Scattered); Section 12.4 (Impact Fees); and Section 12.5 (Off-site Improvements). The Board shall send its Findings and Determinations in writing to the Applicant and shall clearly specify the date of the end of the Design Review Phase and the expiration date of such Findings and Determinations.

Any determination concerning Scattered or Premature development made by the Board during the Design Review Phase shall be considered a preliminary determination based on the preliminary subdivision layout and the application information, materials and testimony submitted to and reviewed by the Board during Design Review. Such determination shall be re-examined by the Board during the Final Plat Review and a final determination shall be made based on the final subdivision layout and all application information, materials, and testimony submitted to and reviewed by the Board. If, during Final Plat Review, the Board finds reason to consider changes to its Findings and Determinations, the Board may require the Applicant to return to Design Review.

- E. An application for Final Plat Review shall be submitted within one (1) year of the date of the end of the Design Review; otherwise, the Board's Findings and Determinations with respect to the preliminary subdivision layout shall be deemed to have expired.

Prior to such expiration and upon written request, the Planning Board may grant an extension of up to one (1) year of the time for the Applicant to submit an application for Final Plat Review if the Board determines that such extension is appropriate based on existing conditions and on progress made by the Applicant. The Board may deny such extension request if legal notice of proposed changes or amendments to the Zoning Ordinance or Subdivision or Site Plan Review Regulations has been posted since the date of public notice for the Design Review by the Planning Board pursuant to RSA 676:4, I(d).

- F. Notwithstanding the above procedures, the Board may waive the requirement for Design Review of a Preliminary Layout when the Board determines, by motion, that the specific circumstances of a proposed subdivision application do not require such review (for example, when a subdivision application would qualify as a Minor Subdivision but for the restriction set forth in Section 9.4 of these Regulations). The granting of a waiver from the requirement for Design Review by

the Board shall not constitute or imply any determination with respect to scattered or premature development as set forth in Section 12.3 of these Regulations or RSA 674:36, II(a), and the Board shall be required to make such determination during Final Plat Review.

Where the Board grants a waiver of the requirement for Design Review of a Preliminary Layout, the Board may nevertheless require the Applicant to submit any information or materials listed in Section 10.4.B of these Regulations that is deemed applicable and necessary for Final Plat Review.

### **10.3 Final Plat Review**

- A. For any Major Subdivision, following the completion of Design Review, unless such review is waived by the Board pursuant to Section 10.2.F of these Regulations, the Applicant shall submit to the Planning Office a Final Plat layout of the proposed subdivision for formal consideration by the Board. Formal consideration shall involve the specific design and engineering details and shall only proceed after proper notice pursuant to Section 7.6 of these Regulations, as required by RSA 676:4, I(d).
- B. Upon acceptance of a complete application for Final Plat Review, the Board shall conduct a review of the final subdivision layout at a public hearing in accordance with the procedures set forth in Section 7 of these Regulations. The Board may solicit comments from abutters and other interested persons as it deems appropriate. The Board shall review the final subdivision layout and supporting application materials for conformance with all applicable standards set forth in Sections 12, 13 and 14 of these Regulations.
- C. Prior to taking any final action on the Final Plat, the Board shall make a final determination concerning Scattered or Premature development based on the final subdivision layout and on the totality of the application information, materials, evidence, and testimony submitted to and reviewed by the Board.

### **10.4 Submission Requirements**

- A. A complete application for all Major Subdivisions, whether for Design Review or Final Plat Review, shall include the items listed in Section 7.7 of these Regulations as well as the following:
  - 1. Paper copies of the proposed subdivision plat (the number to be determined by the Planning Office on an as-needed basis.) Plans shall be submitted on sheets no larger than 24" x 36". Plan sets with multiple pages shall include sheets of uniform size and be bound on the left edge. When more than three (3) sheets are required, an additional cover sheet of the same size shall be attached including a table of contents. The scale of the plans shall be appropriate to the size of the overall development. All lettering shall be of a size and type that is legible.

All Major Subdivision plans shall include and depict the following baseline information as well as the more detailed design information listed in Sections 10.4.B or 10.4.C of these Regulations, as appropriate:

- a. The proposed subdivision name or identifying title, the name of the City and County in which the subdivision is located, a Locus map, north point, scale, date of the plat, and the date and description of any revisions. If a cover sheet is provided, the date of the plat and the date(s) of any subsequent revisions shall be shown on the cover sheet.

NOTE: The date on the plat at the time of the initial submission to the City for application review shall be included on all subsequent submissions to the City. Any subsequent change to the plat shall include a revision date and description of the revision.

- b. The names and addresses of the Applicant(s); the Owner(s) of record of the subject properties; the Owners of abutting properties, including tax map and lot number references; and the Holders of any easements, rights-of-way, or other restrictions, based on the current records of the City Assessor available at City Hall, not more than 5 days before the filing of the application.
- c. The name and business address of the surveyor, including license number and seal, and of every engineer, architect, soil scientist, or wetlands scientist whose professional seal appears on any plan or document submitted to the Board.
- d. The zoning district(s) in which the subdivision is located, including district boundaries if in more than one district.
- e. The boundary lines of the overall tract, and for each of the proposed lots, including bearings and distances, as determined by an actual field survey certified by a licensed land surveyor and bearing the date of the completion of the survey. Surveys shall utilize the NH State Plane Coordinate system, unless prior approval to use an alternate coordinate system is granted by the Planning Office. All dimensions shall be shown in feet and decimals thereof. Referenced on the plat shall be monuments as required under Section 13.5(A) of these Regulations.
- f. Topographic contours, at intervals of five (5) feet or less, including spot elevations on existing roads and a grading plan, if natural contours are to be changed by more than two (2) feet. All contours and spot elevations shall be referenced to USGS or FEMA Flood Insurance Rate Map (FIRM) datums, as appropriate. Existing topographic information shall be prepared by a professional engineer registered in New Hampshire or by a land surveyor licensed in New Hampshire.
- g. The location of existing structures, roads, easements, and trails located on the property and within 200 feet of the property.

- h. The location of existing natural features, including, but not limited to, permanent or intermittent watercourses, marshes, lakes, ponds, flood plains, wetlands, rock outcrops, wooded areas, and other significant features on the property and within 200 feet of the property. The plan shall indicate the approximate limits of clearing necessary for the development and those natural features that are to be removed, retained, or altered.

NOTE: Wetlands on the property shall be delineated by a Certified Wetlands Scientist, whose seal and signature shall appear on the plan.

- i. The location of existing water and wastewater mains, culverts, and drains on the property and within 200 feet of the property with sufficient information to allow City Staff and the Board to view the proposed subdivision in the context of existing City utilities, with pipe sizes, and direction of flow.
- j. If the application covers only a part of the Applicant's entire holding, a map of the entire tract shall be drawn at a scale of not smaller than four hundred (400) feet to the inch showing all existing streets and an outline of the platted area with its proposed streets.

- 2. Digital copies of the overall Subdivision plat (in both .PDF and CAD .dwg format) shall be provided depicting the information required under Paragraph 1 above.
- 3. Any request(s) for waiver(s) or modification(s) pursuant to Section 7.15 of these Regulations.

**B. Design Review - Specific Submission Requirements**

- 1. Major Subdivision plans submitted for Design Review shall include and depict the following information in addition to the baseline information listed in Paragraph 10.4.A(1) above:
  - a. The proposed lot lines and rights-of-way with bearings and distances and areas of each lot in square feet and acres.
  - b. The approximate width, location, and grades of all streets or road rights-of-way proposed by the Applicant.
  - c. The preliminary profile of streets and cross-sections for construction of streets and sidewalks.
  - d. The approximate location and size of all proposed water lines, valves, hydrants, wastewater lines, manholes, and connections to existing public or private utility lines. Alternate means of water supply or wastewater disposal and treatment, including data on



soil tests and preliminary designs and locations, shall be provided if existing municipal systems are not available.

- e. The preliminary storm drainage plan indicating the approximate location and size of proposed catch basins, manholes, drainage lines, ditches, retention, detention, or infiltration systems and their profiles, connections to existing lines or ditches, and all other means of storm water management.
  - f. The location and preliminary design of any proposed bridges or culverts.
  - g. The preliminary plan for existing and proposed telephone, cable, and electric utilities, including municipal fire alarm systems.
  - h. The preliminary location of proposed recreational or open space areas, including land proposed to be dedicated to public use. The Applicant shall also indicate the location of all existing publicly-accessible recreation or open space areas within 1/4 mile (1,320 feet) of the property.
  - i. The location of any proposed traffic control devices necessary in conjunction with the subdivision, as well as the location of all existing transit routes and transit stops located or passing within 1/4 mile (1,320 feet) of the property.
  - j. Phasing lines, where applicable.
2. The following supporting documents and information shall be provided for Design Review:
- a. A preliminary statement of the anticipated work required on existing streets and other off-site improvements to meet the minimum standards set forth herein.
  - b. The information and impact statements required by all applicable portions of Section 12 of these Regulations. The Board may require the Applicant to pay reasonable fees to cover the City's administrative expenses and costs of investigative studies and/or peer reviews with regard to the impact statements as provided in Section 7.7.F of these Regulations.
  - c. Soil Tests: Where private individual wastewater systems are proposed, the Applicant shall perform soil tests complying with requirements of Section 13.4 of these Regulations. For all proposed lots less than five (5) acres in size, the Applicant shall have a soil investigation made and a report prepared to establish the existence of at least 4,000 square feet of contiguous area meeting New Hampshire Department of Environmental Services (NHDES) requirements. NHDES approval of all subdivision lots less than five (5) acres in size shall be obtained and a copy of such

approval shall be provided to the Board prior to the recording of the approved Final Plat. The soil maps and information shall be in accordance with the most current USDA Natural Resource Conservation Service County Soil Maps. Maps prepared by field investigation shall be stamped by a Certified Soil Scientist. All costs of preparing soil data shall be borne by the Applicant.

- d. If a subdivision is to be served by public water supply or public wastewater services, the Applicant shall provide a statement from the City Engineer attesting to the availability of such services. The Applicant shall also provide a statement of methods of sanitary wastewater estimations and computations therefor.
- e. Any development estimated to generate in excess of 100 peak hour trips or 1,000 average daily trips (based upon the most current edition of the Institute of Transportation Engineers' Trip Generation Manual) shall prepare and submit a Traffic Impact Study in accordance with standard traffic analysis conventions as set forth by the NH Department of Transportation. The Board may, in its discretion, require the submission of a Traffic Impact Study for a development estimated to generate less than 100 peak hour trips or 1,000 average daily trips if the Board has reason to believe such development could adversely affect levels of service or have other adverse impacts.
- f. For any subdivision of 20 or more lots, plats, sites, units, or other divisions of land, the Applicant shall request a letter from Advance Transit, or other local public transportation providers, stating whether, in the opinion of the transit provider, public transportation service can be adequately provided to the development.
- g. A drainage analysis map and computations for the watershed area appropriate to the scale of the development and the scope of the project as determined by the Board.
- h. Where a phased development is proposed, a preliminary schedule for construction and completion of streets, utilities, and other required infrastructure improvements.

C. Final Plat Review - Specific Submission Requirements

- 1. Major Subdivision plans submitted for Final Plat Review shall include and depict the following information in addition to the baseline information listed in Paragraph 10.4.A(1) above:
  - a. The final proposed lot lines and rights-of-way with bearings and distances and areas of each lot in square feet and acres.
  - b. The final width, location, and grades of all streets or road rights-of-way proposed by the Applicant.

- c. The final profile of streets and cross-sections for construction of streets and sidewalks.
  - d. Names of all proposed streets.
  - e. The final design, location, and size of all proposed water lines, valves, hydrants, wastewater lines, manholes, and connections to existing public or private utility lines. Alternate means of water supply or wastewater disposal and treatment, including data on soil tests and final designs and location, shall be provided if existing municipal systems are not available.
  - f. The typical lot layout(s) with building envelopes and location for on-site wastewater disposal facilities, if applicable.
  - g. The final storm drainage plan, indicating the location and size of proposed catch basins, manholes, drainage lines, ditches, retention, detention, or infiltration systems and their profiles, connections to existing drainage lines or ditches, and all other means of storm water management.
  - h. The final design and location of any proposed bridges and/or culverts.
  - i. The final plan for existing and proposed telephone, cable, and electric utilities, including municipal fire alarm systems.
  - j. The final location of proposed recreational or open space areas, including land proposed to be dedicated to public use. The Applicant shall also indicate the location of all existing publicly-accessible recreation or open space areas within 1/4 mile (1,320 feet) of the property.
  - k. The final location and design of any proposed traffic control devices necessary in conjunction with the subdivision, as well as the location of all existing transit routes and transit stops located or passing within 1/4 mile (1,320 feet) of the property.
  - l. Phasing lines, where applicable.
  - m. Where applicable, there shall be shown on each lot on the plat whether or not there will be easements for water or wastewater mains, storm drainage of the proposed streets, or other improvements.
2. The following supporting documents and information shall be provided for the Final Review Phase:
- a. A final statement of the work required on existing streets and other off-site improvements to meet the minimum standards set

forth herein, including cost estimates and the method of meeting such costs.

- b. Cost estimates for the completion of all on- and off-site improvements which shall be subject to a Performance Security Agreement pursuant to Section 7.10 of these Regulations.
- c. Temporary Control Plan(s) to be implemented during the proposed construction period, including, but not limited to, traffic control, erosion control, dust control, and hours of operation.
- d. A copy of such proposed covenants or deed restrictions, including Owners Association documents and Bylaws as described in Section 12.8 of these Regulations, as may be intended to apply to the property in whole or in part. Where applicable, such Owners Association documents or other legal instruments shall include provisions for the ownership and maintenance of open space as described in Section 12.2 of these Regulations.
- e. Where a phased development is proposed, a final schedule for construction and completion of streets, utilities, and other required infrastructure improvements, as further set forth in Section 7.13.C of these Regulations.
- f. Any proposed street or roadway access to a State highway shall be approved by the NH Department of Transportation and such written approval shall be provided to the Board prior to the recording of the approved final plat.
- g. Other Approvals: Approvals, as prescribed by law, from any other City agency which may have jurisdiction, including but not limited to, wetland permits (see Section 7.4).
- h. Where applicable to a specific subdivision, the Board may require a statement from telephone, cable, and electric utilities stating that services will be furnished and that arrangements have been made for installation of such utilities according to the plat as submitted by the Applicant.

## **SECTION 11 – RESERVED FOR FUTURE USE**

## **SECTION 12 – GENERAL REQUIREMENTS**

### **12.1 Character of Land**

- A. Unsafe Land: The Board shall prohibit or restrict subdivision of any land which is found by the Board to be unsafe for development by reason of being subject to flooding, erosive stream action, instabilities of slope or fill, or otherwise located in a situation so that safe healthful development cannot be maintained on the land.

- B. Unsuitable Land: The Board shall restrict subdivision of land which is found by the Board to be unsuitable for development by reason of high water table, bed rock or other impervious strata close to the surface or excessive slope, namely any slope of land that is 25% or greater.
- C. Part of Lot: The Board may permit, as to unsafe and unsuitable land, that it be platted as part of a lot in which there is sufficient safe and suitable land to satisfy the requirements of these Regulations as to minimum lot size.

## **12.2 Open Space and Recreation Area**

- A. Purpose: Subdivisions shall be required to provide open space. Developed open space shall be designed to provide active recreational facilities to serve the residents of the subdivision.
  - 1. Amount of Space Required: Fifteen (15) percent of the tract proposed for subdivision shall be set aside for open space adjusted as appropriate for conditions such as population density, existing City facilities, topography, socioeconomic characteristics of the prospective population, and other appropriate site and development specific factors.
  - 2. Size of Open Space Parcels: The area of each parcel of open space designed for active recreational purposes shall be of such dimensions as to be functionally usable.
  - 3. Location of Open Space Parcels: Open space parcels shall be convenient to the dwelling units they are intended to serve. However, because of noise generation, they shall be sited with sensitivity to surrounding development.
- B. Improvements of Open Space Parcels:
  - 1. Developed Open Space: The Planning Board may require the installation of recreational facilities taking into consideration:
    - a. The character of the open space land.
    - b. The estimated age and the recreation needs of persons likely to reside in the subdivision.
    - c. Proximity, nature, and excess capacity of existing City recreation facilities.
  - 2. Undeveloped Open Space: As a general principle, undeveloped open space should be left in its natural state. A subdivider may make certain improvements such as the cutting of trails for walking or jogging, or the provision of picnic areas, etcetera. In addition, the Planning Board may require a subdivider to make other improvements such as removing dead or diseased trees, thinning trees or other vegetation to encourage more desirable growth, and grading and seeding.

- C. Exceptions to the Standards: The Planning Board may permit minor deviations from open space standards when it can be determined that:
1. The objectives underlying these standards can be met without strict adherence to them and/or
  2. because of peculiarities in the tract of land or the facilities proposed, it would be unreasonable to require strict adherence to these standards.
- D. Deed Restrictions: Any land dedicated for open space purposes shall contain appropriate covenants and deed restrictions approved by the attorney for the City ensuring that:
1. The open space area will not be further subdivided in the future;
  2. The use of the open space will continue in perpetuity for the purpose specified;
  3. appropriate provisions will be made for the maintenance of the open space; and
  4. common undeveloped open space shall not be turned into a commercial enterprise admitting the general public at a fee.
- E. Open Space Ownership: The type of ownership of land dedicated for open space purposes shall be selected by the subdivider subject to the approval of the Planning Board. Type of ownership may include but is not necessarily limited to the following:
1. The City subject to acceptance by the City Council;
  2. Other public agencies subject to their acceptance;
  3. Quasi-public organizations subject to their acceptance;
  4. Owner associations or organizations; or
  5. Shared, undivided interest by all property owners in the subdivision.
- F. Owners Association: If the open space is owned and maintained by an owners association, the subdivider shall file a Declaration of Covenants and Restrictions that will govern the association, to be submitted with the application for the Final Plat approval. The provisions shall include, but are not necessarily limited, to the following:
1. The owners association must be established before the lots/dwelling units are sold;
  2. Membership must be mandatory for each owner;
  3. The open space restrictions must be permanent, not just for a period of years;

4. The association must be responsible for liability insurance, real estate taxes and the maintenance of recreational and other facilities;
  5. Owners must pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property to be set forth in the documents establishing the owners association, including specifically the right to collect legal fees for collection and enforcement; and
  6. The association must be able to adjust the assessment to meet changed needs.
- G. Maintenance of Open Space Areas: The person or entity identified in Section 12.2.E. as having the right of ownership or control over the open space shall be responsible for its continuing upkeep and property maintenance.

**12.3 Statement as to Impact of Subdivision and Determination of Whether or Not Premature or Scattered**

- A. Purpose: The purpose of this section is to require the subdivider to provide information to the Planning Board with regard to the impact of the subdivision and such other information as to allow the Planning Board to make a determination as to whether or not the proposed subdivision will be premature or scattered.
- B. Areas of Study and Information: The following areas shall be considered in such studies and such information provided to the Board to determine the effect of the proposed subdivision. The Planning Office may provide administrative guidelines to assist the subdivider in providing appropriate information.
1. Statement of impact of the proposed development on natural resources and environmental quality including, but not limited to, water quality, air quality, wetlands, soil erosion and agricultural soils and a statement of pollution control and environmental impact mitigation measures.
  2. Capacity of the school system; effect on school bus transportation and distance of the proposed subdivision from the nearest elementary school.
  3. Adequacy of streets and/or sidewalks in the general area of the subdivision including major intersections providing access, and such other areas as requested by the Board.
  4. Sufficiency, availability and capacity of utility services to provide water, fire protection, and sewer, and further, the impact of the subdivision on the municipal solid waste disposal facilities.
  5. (If applicable) The impact of on-site subsurface sewage disposal systems as to adjacent wells, water supply systems, and any known aquifers so designated by the United States Geological Survey.
  6. Any special fire, police and public safety problems due to location and/or special conditions relative to the type of use.

7. Impact of drainage from the subdivision on abutting properties and potential drainage problems both on the site of the subdivision and downstream from the subdivision.
8. Fiscal impact statement analyzing the impact of the subdivision on municipal, school and county revenues and expenditures, including estimated potential tax revenue and estimated number of school children.

C. Prohibition of Approval of Scattered or Premature Subdivisions:

The Planning Board shall not approve a subdivision if such subdivision constitutes premature or scattered subdivision as would involve danger or injury to health, safety or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire department, or other public services or necessitate an excessive expenditure of public funds for the supply of such services. If a subdivision is determined by the Planning Board to be premature and scattered, the subdivider may show through both on and off-site improvements made at the expense of the subdivider, that the subdivision is not premature or scattered or, if so, is overcome by remedial action of the subdivider.

D. Board's Determination as to Premature or Scattered:

The Board shall determine based on the information presented and other information available and made part of the record whether or not the amount of development contained in the proposed subdivision in relation to the quantum of services available will pose a danger to the public through insufficiency of services.

#### **12.4 Impact Fees:**

The Planning Board may, in accord with Section 213 of the Zoning Ordinance, require the Applicant to contribute an impact fee for types of capital improvements in addition to those listed in Section 12.5, in an amount reasonably and proportionally related (A) to the capital needs created by the development, and (B) to the benefits accruing to the development from the capital improvements financed by the fee.

#### **12.5 Off-site Improvements:**

If the Board determines that the proposed subdivision will adversely affect existing public facilities, streets, sidewalks, drainage, sewer and water supply, causing them to be inadequate to meet the additional needs created by the subdivision, then the subdivider shall pay a reasonable share for such upgrading of the public facilities to an extent necessary to protect the public interest. If other properties benefit from the upgrading of such off-site public improvements, the Board shall determine the portion of the cost to be paid by the subdivider, taking into consideration the following elements:

- A. The character of the area.
- B. The extent that other public and private property will be benefited by the upgrading;  
and



- C. Any other factors that the Board deems appropriate to establish a rational connection between the needs created by the subdivision and the amount to be paid by the subdivider.

## **12.6 Community Water Supply and Sewage Disposal Systems**

Once the Board grants preliminary or conditional approval to the design of any community water supply or sewage disposal systems to be provided by the subdivider, the Board shall then submit two (2) copies of the design plan to the Water Supply and Pollution Control Division (WSPCD).

If the final subdivision plans approved by the Board differ from the subdivision plans conditionally approved by the Board and reviewed by the WSPCD, then the subdivider shall resubmit the revised plans to the WSPCD for reapproval. Within thirty (30) days of granting final approval to said revised subdivision plans, the Board shall submit one (1) copy of the plat to WSPCD for informational purposes (*revised 8/96*).

## **12.7 Operation and Maintenance of Common Facilities**

The Board will not approve a subdivision with a community water supply or sewage disposal system subject to regulation by Water Supply and Pollution Control Division until provision satisfactory to the Board is made for the continued operation and maintenance of such systems. The Board may require the subdivider to establish an association to provide continued maintenance of such community utilities, streets, parks and playgrounds and beaches as may not be dedicated to public use and accepted by the City. It shall be a condition of Final Plat approval that the subdivider shall file with the Planning Office "As-Built" plans and drawings showing the location and installation of a community water supply and/or sewage disposal system. Such filing shall not impose any obligation on the City but shall be solely for information purposes and for the benefit of the ultimate owners and operators of such common facilities.

## **12.8 Owners Association**

- A. Documents for an Owners Association: In the case of a subdivision requiring a management organization to operate and maintain private roads, community water or sewer systems, common lands or reserve areas or recreational facilities, the subdivider shall furnish a copy of the proposed legal documents establishing this organization and shall include specific provisions for the collection of fees, assessments and charges to pay for the operation and maintenance of such common facilities.

## **SECTION 13 – DESIGN STANDARDS**

### **13.1 Minimum Standards**

In considering applications for subdivision of land, the Planning Board shall adhere to and be guided by the standards hereinafter set forth. Such standards shall be considered to be minimum standards and shall be reduced by the Board only when in its opinion specific circumstances surrounding a subdivision, or condition of the land in

such subdivision, indicate that such modification will properly carry out the purpose and intent of these Regulations.

### **13.2 Specifications for Required Improvements**

All required improvements shall be constructed or installed in accordance with good engineering design and practice in accordance with City standards, which may be obtained from the Engineer, in accordance with these Regulations.

### **13.3 Lot Layout, Drainage and Driveways**

Lot layout will result in the permanent division of land. It is in the public interest that the lot layout shall be functional, economical and aesthetically pleasing. Lots shall be laid out in relation to the topography and graded sufficiently to provide adequate drainage for the purpose intended without the diversion of water onto other lots or onto property adjoining the subdivision. Excessive grading and disturbance of natural cover will not be permitted. Steep driveways shall be avoided. The configuration of the lots shall provide lots that are functional for land uses intended. A lot layout resulting in unusual shapes solely to satisfy minimum area requirements of the Zoning Ordinance will not be approved.

- A. The subdivider shall demonstrate on each lot that there is a feasible location for a safe and convenient access for a driveway without unreasonable grades.

### **13.4 Lots/Lot Area/On-Site Septic System Requirements**

- A. Lot Sizes and Areas. The minimum lot size for each lot shall be in conformity with the Zoning Ordinance. In addition, where there is to be an on-site subsurface sewage disposal system, additional area may be required based on the following:
  1. For each lot in the proposed subdivision requiring a subsurface sewage disposal system, soil data shall be provided using Site Specific Soil Maps for New Hampshire and Vermont SSSNNE Special Publication No. 3, June, 1997.
  2. The tests and soil mapping for required soil information shall be performed by a certified soil scientist.
  3. The report of the certified soil scientist shall establish that there is at least 4,000 square feet of contiguous area suitable for the placement of an individual sewage disposal system on each lot.
  4. In the case of a subdivision resulting in the creation of lots in excess of five (5) acres, the subdivider may request a waiver under Section 13.19 from the requirements of the investigation and report as to soil data.

### **13.5 Streets**

- A. Monuments:

1. Permanent survey monuments consisting of concrete or stone monuments not less than four (4) inches square and forty-two (42) inches long shall be installed in the ground a minimum of three (3) feet. Such monuments shall be installed in the right-of-way limits of new streets where there is a change in direction and at all points of curvature and tangents or angular change in direction. This requirement shall apply to the right-of-way limits on both sides of the new street.
  2. On each permanent monument as described above, there shall be a plug, a brass plate, or a pin to serve as the point of reference.
  3. Iron rods not less than one-half ( $\frac{1}{2}$ ) inch in diameter and at least twenty-four (24) inches long shall be placed at all lot corners or angle points not covered by the permanent monument described in subparagraph (1) above.
  4. The monumentation required for a subdivision fronting on an existing street will be monuments at the point of intersection of the perimeter of the subdivision with the right-of-way line of the existing street.
  5. Where a subdivision is a portion of a larger tract of land no permanent survey monument shall be required for that portion not included within the proposed subdivision so long as the perimeter monumentation of the entire tract of land is sufficiently established to the satisfaction of the Planning Office.
- B. Cul de sac: A cul-de-sac street shall not exceed twelve hundred (1200) feet in length and shall not provide entrance to other streets. When there are ten (10) residential units or less on a cul-de-sac, the Board may modify the pavement width requirements, provided that the subdivider provides adequate off-street parking facilities. A turnaround shall be provided with a minimum radius of sixty (60) feet at the end of all cul-de-sacs. Upon recommendation of the City Engineer, the Board may approve a "T" turnaround instead of a cul-de-sac.
- C. Dead End Street: A temporary dead end street used in a phased development shall be designed to serve not more than two hundred (200) lots, including those lots abutting on such street and those abutting on streets served by the dead end street. A dead end street may serve as an entrance for cul-de-sac streets. Any dead end street at its terminus shall have a turnaround with a minimum radius of 60 feet.
- D. Standards: All streets shall be completely constructed by the subdivider in accordance with the minimum requirements for street construction and as shown in Appendices A and B hereof.
- E. Layout:
1. Arrangement: The arrangement of streets in the subdivision shall provide for the continuation of streets of adjoining subdivisions and for proper projection of streets into adjoining properties which are not yet subdivided, in order to make possible necessary fire protection, movement of traffic and construction or extension, presently or later required, of needed utilities and public services such as sewers, water and drainage facilities. Where, in the

opinion of the Board, topographic or other conditions make such continuance undesirable or impracticable, the above conditions may be modified.

2. Topography: Streets must be logically related to the topography so as to produce usable lots, reasonable grades and safe intersections in appropriate relation to the proposed use of the land to be served by such streets. Adequate provisions shall be made to control the drainage of each lot by an adequate storm water system, subject to approval of the Board.
3. Horizontal and Vertical Curves: No horizontal curve shall have a center line radius less than that shown in Appendix A. For changes in grade exceeding one (1) percent, a vertical curve shall be provided insuring a minimum sight distance of two hundred (200) feet.
4. Grades, Guardrails and Shoulders: Street grades shall be at least one (1) percent to provide satisfactory drainage. The maximum allowable grade for local service streets shall be ten (10) percent. In no case shall a grade greater than five (5) percent be allowed at or within fifty (50) feet of any intersection.

The Board may require safety features as deemed necessary, such as guardrails and extended shoulders. For collector streets, the maximum allowable grade shall be eight (8) percent. Cul-de-sac turnarounds shall not have more than a three (3) percent grade in any direction.

5. Intersections: Street intersections shall be as nearly at right angles as possible, and no intersection shall be at an angle of less than sixty (60) degrees.
6. Tangents: A tangent of at least one hundred (100) feet in length shall be introduced between reverse curves on all proposed streets.
7. Street Intersections: Where a street intersects another street that intersection shall be at least 150 feet distant from the next street intersection.
8. Private Streets: There may be private streets in a subdivision. The subdivider shall satisfy the Board that such private streets shall be properly maintained to provide access for police, fire and other emergency vehicles.
9. Street Names: Each street shall be identified by a name shown on the Preliminary Layout. Proposed streets which are in alignment with existing and named streets shall bear the names of the existing streets. In no case shall the names for a proposed street duplicate existing street names irrespective of the suffix, be it street, avenue, boulevard, driveway, place or court. Street names shall be based on historic or geographic significance to the extent possible.
10. Lot Number: All lots shall be numbered for identification. The building number shall be assigned under City Ordinance #60 "Numbering of Buildings."

- F. Classification of Streets: The classification standards of design shall be as shown in Appendices A and B and as required by this section.
- G. Curbs and Sidewalks: Curbs and sidewalks shall be required on at least one side of all streets as follows:
1. In any subdivision where the density is greater than one (1) residential unit for each 10,000 square feet; or
  2. One (1) commercial or industrial use reaches 10,000 square feet unless modified by the Board. Curbs and sidewalks may be required on both sides of a street if deemed necessary by the Board.
- H. Curbs and Gutters.
1. Curbing shall be required for the purposes of drainage, safety, and delineation and protection of pavement edge.
  2. Curb requirements shall vary according to street classification and intensity of development in accordance with the requirements shown in Appendix A and in conformance with "Standard Specifications for Road and Bridge Construction, State of New Hampshire." Curbing may also be required:
    - a. For storm management;
    - b. To stabilize pavement edge; and/or
    - c. To delineate parking areas.
  3. Where curbing is not required, some sort of edge definition and stabilization shall be furnished for safety reasons and to prevent pavement unraveling.
  4. Where curbing is required, this requirement may be waived and shoulders and/or drainage swales used when it can be shown that:
    - a. Shoulders are required by State regulations;
    - b. Soil or topography make the use of shoulders and/or drainage swales preferable; or
    - c. It is in the best interests of the community to preserve its rural character by using shoulders and/or drainage swales instead of curbs.
  5. At medium development intensity, the curbing requirements may be waived where front yard setbacks exceed forty (40) feet and it can be demonstrated that sufficient on-site parking exists.
  6. Where curbing is required, said curbing shall be either concrete or granite.
  7. Curbing shall be designed to provide ramps for bicycles and/or wheelchairs as required by state law.

8. Curbing shall be constructed according to the specifications set forth in Appendix D.

### **13.6 Street Lighting.**

Street lights shall be installed in accordance with the standards and guidelines contained in the IES Lighting Handbook or the lighting and spacing standards established by the City.

### **13.7 Street Signs.**

All street signs and posts shall be provided and installed by the City at the expense of the subdivider, in accordance with City standards and requirements.

### **13.8 Utilities.**

#### **A. Water:**

1. In any subdivision requiring on-lot water source, the subdivider shall demonstrate to the satisfaction of the Board that each lot can be served by an on-lot water source in sufficient quality and quantity.
2. The existing City water system shall be extended or a community system provided so as to provide the necessary quantity of water, at acceptable pressure, for fire protection. In the event of connection to the City water system, the subdivider shall be required to pay to the City a sum of money equal to the number of units proposed times the per unit hookup fee or assessment set by the City Council. The subdivider may be required by the Board to provide or have installed at his expense larger transmission lines and storage and pumping facilities outside the subdivision if the supply and pressure would otherwise be inadequate. There shall be a blow off for flushing the water line. All extensions to the existing City system must be approved by the City Council prior to filing the application for Final Plat approval.

#### **B. Sewage: The subdivider shall provide adequate provisions for sewage with the following restrictions:**

1. The subdivider shall be required to connect to the City sewer system or provide a community sewer system approved by the City and the State in any subdivision where off-lot sewer is proposed. If the subdivision is within 3,000 feet of the City sewer system and has twelve (12) or more lots, the Board shall require connection to the system by the subdivider. The subdivider is required to provide such pumping and other facilities as may be necessary. He may also be required to pay to the City to connect to the sewer system a sum of money equal to the number of units proposed times the per unit hookup fee or assessment set by the City Council. The subdivider may be required by the Board to provide or to have installed at his expense larger sewer lines, pumping and other facilities, outside the subdivision if the sewer service would otherwise be inadequate. All extensions to the existing City

system must be approved by the City Council prior to filing the application for Final Plat approval.

2. Lots to be served by an on-lot subsurface sewage disposal system shall meet the requirements of Section 13.4 "Lot/Lot Area/ On-site Septic System Requirements."
- C. Electric, Telephone, Cable TV. Electric, telephone and cable TV distribution systems shall be underground, including services and street lights, unless modified by the Board. The subdivider shall coordinate subdivision design with the utility companies to ensure adequate and suitable area for underground installations.

### **13.9 Storm Drainage**

- A. Removal of Spring and Surface Water: The subdivider shall be required by the Board to carry away by pipe or open ditch any spring or surface water that may be either existing 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 easement of appropriate width.
- B. Drainage Structure to Accommodate Potential Development Upstream: Culverts or other drainage facilities shall, in each case, be large enough to accommodate potential runoff from the entire subdivision. The City Engineer shall approve the design and size of facilities based on anticipated runoff under conditions of total potential development. The subdivider's engineer shall provide such information as the City Engineer deems necessary to the determination of the adequacy of the facilities.
- C. Responsibility for Drainage Downstream: The subdivider's engineer shall provide such information as the City Engineer deems necessary to determine the effect of the subdivision on the existing downstream drainage facilities outside of the area of the subdivision. Where the City Engineer anticipates that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility so that there will be damage to private property or an increase in the expenditure of public funds, the Board shall not approve the subdivision until the subdivider and the City Council agree to share the cost of the necessary improvement required. The City's share shall be based upon the portion of runoff which the developed area downstream from the subdivider's subdivision contributes to the necessary improvement, except that there shall be credited to the City's share that portion of the need which can be met by existing facilities.
- D. Other Provisions. In design of the drainage system, natural waterways shall be utilized to the fullest extent feasible. There shall be at least eighteen (18) inches of cover over culverts crossing roadways and for culverts over fifteen (15) inches in diameter the City Engineer may specify additional depth of cover.

The minimum size culvert installed shall be fifteen (15) inches. Where catch basins are installed, the street shall have curbing unless the Board shall approve an alternate method. Open roadside drainage ditches in excess of five (5) percent grade shall be paved with stone or asphalt as required by the Board. All culverts shall have headers which shall not extend above the final grade. Header design

shall be approved by the City Engineer. Whenever possible, natural drainage courses should be extended across a road and not diverted to roadside drainage ditches.

### **13.10 Excavation and Grading**

- A. General: All excavating and filling required for construction and improvements shall be as specified herein. The entire area of work shall be brought to the required lines and grades by excavation or filling. Excavation material, if suitable, may be used in making embankments and in filling low areas. A minimum of four (4) inches of topsoil shall be provided to cover over all finished slopes. All streets shall be graded from property line to property line to approved grade and cross section.
- B. Suitable Materials Required: No stumps, wood, roots, sod or other fibrous materials shall be placed in any embankment. In those locations where the alignment crosses swamp or marsh land, or other similar soil that is incapable of supporting the proposed roads, such inadequate soil shall be entirely removed and replaced with adequate material. The materials so removed shall not be placed in embankment, but may be used in flattening embankment slopes or for filling low spots outside the road section. The Board may require the subdivider to submit evidence of boring and/or other soil investigations to determine the depth composition and stability of the subgrade within the road section.
- C. Embankments: Embankments shall be formed of suitable and acceptable excavated materials and brought to the required lines and grades. The materials for embankment shall be placed in successive horizontal layers not exceeding six (6) inches in depth extending across the entire fill area. They shall be spread by a bulldozer or other acceptable method, and shall be thoroughly compacted. Successive layers shall not be placed until the layer under construction has been thoroughly compacted. Where embankments are made of rock, the rock shall be so deposited that all voids are filled with earth and in such a way that the compaction specified above may be secured.
- D. Subgrade: Upon completion of filling and excavating, the subgrade shall be formed to the required grade and contour, and the entire surface again rolled as specified above. High spots shall be removed and low spots filled with the acceptable material and the process of leveling and rolling continued until no further depression results. Soft spots shall be removed and replaced with crushed stone, gravel or as specified by the City Engineer. These areas shall be drained as directed by the City Engineer.
- E. Side Slopes: Side slopes in embankment and on roadside drainage ditches shall descend one (1) foot vertically for at least each two (2) feet horizontally (2 on 1). Surplus material resulting from excavation of the road prism shall be used to flatten slopes of embankment so that they ascend one (1) foot vertically for at least two (2) feet horizontally (2 on 1). Side slopes in excavation rock shall ascend six (6) feet vertically for at least each one (1) foot horizontally. Side slopes shall not be graded so as to extend beyond the limits of the road right-of-way onto land not part of the subdivision unless a suitable slope easement has been properly established and granted by the affected property owner.



### **13.11 Site Preservation**

- A. Natural Cover: Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff, and conserve the natural cover and soil. After application for approval has been submitted to the Board, no topsoil, sand or gravel shall be removed from the subdivision for any other purpose than to meet construction needs for that particular subdivision or to meet any requirements of these Regulations.
- B. Erosion and Sediment Control: The smallest practical area of land should be exposed at any one time during development. When land is exposed during development, the exposure should be kept to the shortest practical period of time. Land should not be left exposed during the winter months. Where necessary, temporary vegetation and/or mulching and structural measures may be required by the Board to protect areas exposed during the development. Sediment basins (debris basins, desilting basins, or silt traps) shall be installed and maintained during development to remove sediment from runoff water and from land undergoing development.
- C. Other Requirements: Where possible, natural drainage-ways may be utilized and left open to remove excess surface water; the permanent final vegetation and structures should be installed as soon as practical in the subdivision. If the City Engineer determines that excessive damage may result from open channel flow, closed drainage systems will be required.

### **13.12 Fire Protection**

In the event that a subdivision is not serviced by City water mains, then the following standards shall apply in order to provide minimum requirements for water supply for firefighting, and a reasonable degree of protection to life and property.

- A. There shall be located in the subdivision a water storage facility capable of delivering required fire flows as determined by using the ISO formula for required fire flow. Such storage and delivery systems will meet the requirements of NFPA #22, Water Tanks for Private Fire Protection, and NFPA #24, Private Fire Service Mains and Their Appurtenances. In no case shall storage capacity be less than 10,000 gallons of usable water.
- B. If proper improvements to be constructed are to be sprinklered, either by Building Code requirements or applicant's choice, water storage capacity shall be determined by NFPA #13, Installation of Sprinkler Systems (for commercial and/or multifamily), or NFPA #13D, Installation of Sprinkler Systems in One and Two-Family Dwelling and Mobile Homes. In the event that the proposed project does not fit within either national code, then the Fire Department shall determine what is required to meet the intent of these two codes.
- C. The supply of water for firefighting purposes shall be located and maintained so as to be accessible year-round to Fire Department apparatus. Such supply shall be

within a 500 feet hose lay of all structures for residential development and within 300 feet hose lay of all structures for commercial and industrial development.

- D. The Board shall obtain comments from the Fire Department on compliance with these standards.

Nothing contained herein shall relieve the subdivider of complying with applicable provisions of Ordinance 23, the Lebanon Building Code.

### **13.13 Pedestrian Walks and Bicycle Paths**

Where necessary, in the judgment of the Board, public ways for pedestrian and/or bicycle travel and access may be required between subdivisions or its parts or between a subdivision and public property. These pedestrian walks and/or bicycle paths shall be built and lighted in conformity with applicable standards of the City. Unless otherwise stated by the Board as part of its written decision, no pedestrian or bicycle way created under this section shall be considered to be a street for frontage or access purposes, nor shall such a way, by virtue of its approval as part of a subdivision, be deemed to be dedicated to the City as a City-maintained public highway. The Board, in its decision, may include provisions governing how and by whom such a way shall be maintained.

### **13.14 Development of Open Space**

On land to be used as active recreation open space, undesirable growth and debris shall be removed. Wooded and brook areas shall be left natural. Active recreation open spaces shall be graded properly to dispose of surface water, and shall be seeded with lawn grass. There shall be no depositing, dumping, or storage of waste, or other natural or man-made material, supplies or equipment, on any subdivision land designated as open space. No work, or removal, or filling shall be done, nor shall the existing natural characteristics of open space land be altered from the original condition, until a site plan shall have been approved by the Board.

### **13.15 Parks and Playgrounds**

Areas set aside for parks and playgrounds to be dedicated or to be reserved for the common use of all property owners in the subdivision whether or not required by the Board shall be of reasonable size, shape, character and location for the intended use.

### **13.16 Special Flood Hazard Areas**

All subdivision proposals and proposals for other development governed by these Regulations having lands identified as Special Flood Hazard Areas in the "Flood Insurance Study for the City of Lebanon, New Hampshire", together with the associated Flood Insurance Rate Maps (which Special Flood Hazard Areas are classified as A Zones) and Flood Boundary and Floodway Maps of the City of Lebanon dated June 4, 1980 shall meet the following requirements:

- A. All subdivision proposals and other proposed new development shall be reviewed to determine whether such proposals will be reasonably safe from flooding. Subdivision review shall assure that the following minimum standards are met:

1. The proposal is designed consistent with the need to minimize flood damage; and
2. All public utilities and facilities, such as sewer, gas, electrical, and water systems shall be located and constructed to minimize or eliminate flood damage; and
3. Adequate drainage systems shall be provided to reduce exposure to flood hazards.

### **13.17 Reserve Strips**

Reserve strips of land which in the opinion of the Board show an intent on the part of the subdivider to control access to land dedicated or to be dedicated to public use shall not be permitted.

### **13.18 Modifications or Waivers of Design Standards**

A subdivider may request the modification or waiver of a design standard contained in Section 13. The Board may grant such request if it determines that compliance is not required to meet the purpose and intent of these Regulations and that the public good will not be adversely affected.

## **SECTION 14 – COMPLETION OF REQUIRED IMPROVEMENTS AND BONDING**

### **14.1 Completion of Improvements**

#### A. Requirement to Complete Improvements:

The Applicant shall be required to complete, in accordance with the Notice of Action and these Regulations, all the streets, sidewalks, utilities, and other improvements as so specified. Such required improvements shall be completed at the Applicant's expense, without cost or reimbursement by the City. Record drawings and any other required information shall be delivered by the Applicant to the City for all improvements to be transferred or conveyed to the City.

#### B. Active and Substantial Development and Substantial Completion

As provided for in RSA 674:39, III, the Board may specify the threshold levels of work that shall constitute the following terms, with due regard to the scope and details of a particular project:

##### 1. Active and Substantial Development or Building

- a. For purposes of these Regulations, unless modified by the Board at the time of approval of a specific application, the completion of all of the following shall imply "Active and Substantial Development or Building" when inspected and approved by the City Engineer or designated agent:

- i) Construction of and/or installation of basic infrastructure to support the development (including all of the following: one or more subdivision roadways, access ways, etc. to a minimum gravel base; and water and wastewater lines and other utilities placed in underground conduit ready for connection to proposed buildings/structures) in accordance with the approved plans; and,
- ii) Construction and completion of drainage improvements to service the development (including all of the following: detention/retention basins, treatment swales, pipes, underdrains, catch basins, etc.) in accordance with the approved plans; and,
- iii) Placement and maintenance of all erosion control measures on the site as specified on the approved plans.

Movement of earth, excavation, or logging of a site without completion of items i, ii, and iii, above, shall not be considered "Active and Substantial Development or Building." Plans approved in phases shall be subject to this definition for the phase currently being developed.

- b. Unless otherwise specified by the Board, Active and Substantial Development or Building shall be achieved within two (2) years from the date of the recording of the plat.
- c. The time for completion of Active and Substantial Development or Building may be extended for good cause by the Planning Board. A request for an extension of the time within which to complete such Active and Substantial Development or Building shall be submitted by the Applicant to the Planning Office prior to such expiration date. Requests for extension of time to complete Active and Substantial Development or Building received after the expiration date shall not be considered by the Board.

In no event shall the time for completion of Active and Substantial Development or Building be extended to more than five (5) years from the date of the recording of the plat, unless the subdivision has been approved for completion in phases in accordance with Section 7.13 of these Regulations. In the event the Planning Board approves an extension request, the Applicant shall be required to update all Subdivision Agreements, Security Agreements, and other documents, as necessary, to reflect the dates of the extended approval.

## 2 Substantial Completion

- a. For purposes of these Regulations, unless modified by the Board at the time of approval of a specific application, Substantial Completion shall be deemed to have occurred when all on-site and

off-site improvements specified in the subdivision approval have been constructed or installed by the Applicant and inspected and approved by the City Engineer or designated agent, except for those improvements which are explicitly deferred by vote of the Board.

In the event that the City calls a performance security for such improvements and the funds are paid to the City, Substantial Completion of the improvements in the subdivision shall be deemed to have occurred.

- b. Unless the subdivision has been approved for completion in phases in accordance with Section 7.13 of these Regulations, or as otherwise specified by the Board, Substantial Completion shall be achieved within five (5) years from the date of the recording of the plat.

C. Default of the Applicant:

If the Applicant fails to complete Active and Substantial Development or Building or fails to achieve Substantial Completion within the specified period(s) as described above, or in the event that the Applicant is in default for failing to construct and install the required improvements as specified, or in the event the Applicant is in default for any other reason, the City shall have the following remedies:

1. The Board, upon Notice to the Applicant, abutters, holders of conservation, preservation, or agricultural preservation restrictions, and any lot owners in the approved subdivision, shall revoke the approval of the subdivision in accordance with provisions of RSA 676:4-a to prevent the sale of any further lots. A certified copy of the Board's action shall be recorded in the Grafton County Registry of Deeds under the name of the Applicant as Grantor. The Applicant or the Applicant's successors or assigns, may request the withdrawal of the revocation by submitting a new application for subdivision review and satisfying the Board that all required improvements shall be constructed and installed without cost or expense to the City.
2. The City shall have the right to use the security given by the Applicant to pay for the expense of constructing and installing required improvements plus an administration fee of up to ten percent (10%). If the security is inadequate, the Applicant shall pay any cost in excess of the amount available from the security furnished by the Applicant. The City shall make written demand upon the Applicant for payment. The City shall be entitled to reasonable attorneys' fees and costs for the collection of any unpaid amounts due from the Applicant to the City.
3. In the event the City seeks injunctive relief, the Applicant agrees that the City shall not have to post any bond as a condition, notwithstanding the provisions of law or any court rule.

D. Acceptance of Dedication Offers:

Acceptance of formal offers of dedication of streets, utilities, public areas, easements and parks shall be by action of the City Council. The approval by the Board of the subdivision plat shall not be deemed to constitute or imply the acceptance by the City of any street, utility, public area, easement, or park shown on said plat. The Board may require the Final Plat to be endorsed with appropriate notes to this effect.

**14.2 Inspection of Improvements, Procedure and Fees**

The City shall provide for inspection of required street, utility, drainage, and/or erosion control improvements during construction to insure their satisfactory completion. The Applicant shall pay to the City a fee estimated to cover the cost of the inspection services as determined by the City Engineer. No building permits shall be issued until all fees are paid. If the City Engineer or designated agent finds upon inspection that any of the required improvements have not been constructed in accordance with the City's standards and specifications, the Applicant shall be responsible for completing any required alterations of the improvements to bring them into compliance.

**14.3 Maintenance of Street and Utility Improvements**

- A. The Applicant shall be required to maintain all streets, sidewalks, utility and/or drainage improvements in the subdivision including, but not limited to, snow removal, until acceptance of any such improvements by the City.
- B. The Applicant may be required to enter into a Maintenance Security Agreement with the City following substantial completion, as determined by the City Engineer or the City's designated agent, of streets, sidewalks, and utility improvements to be offered for dedication to the City, in an amount considered adequate by the City Engineer and in a form satisfactory to the City's attorney in order to assure the maintenance of such improvements until acceptance of those improvements by the City. If there are any certificates of occupancy for buildings on a street not accepted by the City, the City may, on twelve (12) hours notice, plow the street or effect emergency repairs and require the Applicant to pay the City.

**14.4 Issuance of Building Permits and Certificates of Occupancy**

- A. Where a performance security has been provided for a subdivision, no temporary or final certificate of occupancy for any building in the subdivision shall be issued until the required improvements, including all underground utilities, have been installed, inspected and approved by the City Engineer or designated agent and until the first course of pavement has been applied to the street from the entrance to the subdivision to the front of the building.
- B. The extent of street improvements shall be adequate for vehicular access by a prospective occupant and by police, fire, and ambulance personnel and equipment, prior to the issuance of any temporary or final certificate of occupancy.

- C. No building permit(s) shall be issued for the final fifty percent (50%) of lots or units in the subdivision, until all improvements required by the Board including, but not limited to, wastewater, water, power, streets and sidewalks have been fully completed by the Applicant and inspected and approved by the City.

**14.5 Performance Security Agreement:**

- A. As provided for in Section 7.10 of these Regulations, the Applicant may execute a Performance Security Agreement in an amount approved by the City Engineer and deemed sufficient to secure to the City the satisfactory construction and installation of all required improvements. The Applicant shall be liable for the actual cost of the construction and installation of all such required improvements regardless of the acceptance or amount of any such Performance Security Agreement. Such Performance Security Agreement shall comply with all statutory requirements of RSA 674:36, III and shall be satisfactory to the City Manager as to form, sufficiency, and manner of execution as set forth in these Regulations. The Performance Security Agreement shall be secured by an irrevocable letter of credit, a surety bond, an escrow account, or other security acceptable to the City. The period within which required improvements must be completed shall be incorporated into the Performance Security Agreement and shall not exceed five (5) years from the date of the recording of the plat.

- B. Release or Reduction of Performance Security:

The City shall not release nor reduce the amount of a Performance Security Agreement until the City Engineer, or designated agent, has certified that all required improvements have been satisfactorily completed in accordance with the approved subdivision plans and the City's standards. Such certification by the City Engineer or agent shall be based on detailed Record Drawings and other information provided by the Applicant's engineer or surveyor, indicating the location, dimensions, materials, and any other information required by the City Engineer, which demonstrate that the layout and installation of the improvements are in accordance with the approved construction plans for the subdivision.

As phases or portions of the secured improvements or installations are completed, inspected, and approved as provided above, the City shall partially release the performance security to the extent reasonably calculated to reflect the value of such completed improvements or installations so long as the security retained by the City is sufficient to cover the estimated cost of all remaining improvements. (RSA 674:36,III(b)) In no event shall the performance security be reduced below twenty-five percent (25%) of the original principal amount unless the Board takes such action upon a request by the Applicant and after holding a public hearing on the request.

Final release of the performance security shall not occur until all required improvements covered by the Performance Security Agreement have been completed, inspected pursuant to Section 14.2 of these Regulations, and approved by the City and unless any Maintenance Security Agreement, if required, is in place pursuant to Section 14.3 of these Regulations.

**SECTION 15 – AMENDMENTS**

These Regulations may be amended by the Board as provided in RSA 675:6, which requires a public hearing prior to amendment and Notice as required by RSA 675:7. After the completion of the public hearing, the amendment may be adopted by an affirmative vote of a majority of the members of the Board. A copy of the amendment shall be certified to by a majority of the Board and shall be filed with the Lebanon City Clerk who shall note thereon the date of the recording. The amendment shall be legal and shall be in effect upon recording of the certified copy with the Lebanon City Clerk. A copy of the certified copy filed with the Lebanon City Clerk shall be sent to the Office of State Planning, RSA 675:9.

**SECTION 16 – AUTHORITY, ADOPTION AND AMENDMENT**

Authority granted to the Lebanon Planning Board by the voters of the City of Lebanon, March 9, 1965.

The existing Subdivision Regulations were adopted on April 10, 1978 and amended as follows:

<b>ADOPTED/AMENDED</b>	<b>DATE</b>	<b>SECTION NUMBER (S)</b>
Newly Adopted:	May 13, 1991	
Amended:	September 28, 1992	13.3
Amended:	September 13, 1993	14.4.a, 14.4.c, 14.6.d
Amended:	August 26, 1996	7.4.d, 11.4.a(3), 12.6, 19.1, 19.2
Amended:	April 14, 1997	7.1
Amended:	February 9, 1998	6.4.1, 8.1.b, 11.2.a(1), 11.2.a(2), 11.2.d, 11.3.a, 11.3.u, 11.4.a(2), 11.4.a(17), 13.4.1(1)
Amended:	March 22, 1999	6.20, 6.21, 6.24, 6.25, 7.4
Amended:	November 8, 1999	7.4.f, 7.4.g, 11.4.a, 12.4
Amended:	March 12, 2001	12..4
Amended:	May 14, 2001	7.3.d
Amended:	March 12, 2013	5; 6.1-6.3; 7.1-7.15; 8.1-8.2; 9.1-9.5; 10.1-10.4; 11; 13.13; 14.1-14.5;
Amended:	December 19, 2018	7.12.D

**SECTION 17 – SEVERABILITY**

These Regulations and the various parts, sections, subsections and clauses thereof, are hereby declared to be severable. If any part, sentence, paragraph, subsection, section or clause is



adjudged unconstitutional or invalid, it is hereby provided that the remainder of the Regulations shall not be affected thereby.

## **SECTION 18 – REPEAL**

The existing Subdivision Regulations of the City of Lebanon, adopted April 10, 1978, as amended from time to time, be and the same is hereby repealed. Such repeal shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding pending on or by virtue of the Subdivision Regulations so repealed.

## **SECTION 19 – ADOPTION AND APPLICATION**

These Regulations shall not apply to any Completed Application accepted prior to May 13, 1991, nor shall any approved subdivision plan be affected or any other subdivision application specifically described in the Motion of Adoption, except as allowed by law. The prior Regulations described in Section 16 above shall continue to apply to those Completed Applications not subject to these Regulations hereby adopted.

The effective date of these Regulations is the date of filing with the Lebanon City Clerk. Any modification of an approved subdivision plan not subject to these Regulations shall be subject only to the extent of the requested modification and the Board shall restrict its consideration to that modification, unless the Board decides otherwise for good cause.

### **19.1 Appeal to the Superior Court.**

Any person aggrieved by any decision of the Planning Board, except for decisions discussed in Section 19.2 may appeal to the Superior Court pursuant to RSA 677:15 within 30 days after the decision of the Planning Board has been filed and first made available for public inspection in the Office of the Planning Board or of its clerk or secretary (*revised 8/96*).

### **19.2 Appeal to the Zoning Board of Adjustment.**

If the Planning Board makes a decision or determination which is based upon the terms of the Zoning Ordinance, or upon any construction, interpretation, or application of the Zoning Ordinance, which would be appealable to the Zoning Board of Adjustment if it had been made by the administrative officer, then such decision may be appealed to the Zoning Board of Adjustment under this section; provided, however, that if the Zoning Ordinance contains an innovative land use control adopted pursuant to RSA 674:21 which delegates administration, including the granting of conditional or special use permits, to the Planning Board, then the Planning Board's decision made pursuant to that delegation cannot be appealed to the Zoning Board of Adjustment, but may be appealed to the Superior Court as provided by RSA 677:15(*revised 8/96*).