

SECTION VIII: RELATIONSHIP TO OTHER REGULATIONS

RULES AND REGULATIONS

GOVERNING THE SUBDIVISION OF LAND

IN

Middlefield, MASSACHUSETTS
(Town)

The Town of Middlefield has adopted the Commonwealth of Massachusetts sub-division control law, and the Planning Board has developed rules and regulations for sub-divisions in the Town effective April 11, 1977.

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RULES AND REGULATIONS
GOVERNING THE SUBDIVISION OF LAND
MIDDLEFIELD, MASSACHUSETTS

SECTION 1 PURPOSE

The subdivision control law has been enacted for the purpose of protecting the safety, convenience, and welfare of the inhabitants of the cities and towns in which it is, or may hereafter be, put in effect by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways and insuring sanitary conditions in subdivisions and in proper cases parts and open areas. The powers of a planning board and of a board of appeal under the subdivision control law shall be exercised with due regard for the provision of adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel; for lessening congestion in such ways and in the adjacent public ways; for reducing danger to life and limb in the operation of motor vehicles; for securing safety in the case of fire, flood, panic, and other emergencies; for insuring compliance with the applicable zoning ordinances or by-laws; for securing adequate provision for water, sewerage, drainage and other requirements where necessary in a subdivision with each other and with the public ways in the city or town in which it is located and with the ways in neighboring subdivisions.

SECTION 2 AUTHORITY

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

SECTION 3 GENERAL

3.10 Definitions

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

“Preliminary Plan.” A plan of a proposed subdivision or re-subdivision of land drawn on tracing paper, or a print thereof, showing (a) the subdivision name, boundaries, north point, date, scale, legend and title “Preliminary Plan”; (b) the names of the record owner and the applicant and the name of the designer, engineer or surveyor; (c) the names of all existing and proposed lines of streets, ways, easements and any public areas within the subdivision in a general manner; (e) the proposed system of drainage, including adjacent existing natural waterways, in a general manner; (f) the approximate boundary lines of proposed lots, with approximate areas and dimensions; (g) the names, approximate location and widths of adjacent streets; (h) and the topography of the land in a general manner.

“Road”- See “Street”

“Sketch Plan.” May be a simple free-hand sketch, preferably on topographic survey, showing proposed layout of streets, lots, and other features in relation to existing conditions.

“Street.” A public way, or a private way either shown on a plan approved by the Planning Board in accordance with the Subdivision Control Law, or otherwise qualifying a lot for frontage under the Subdivision Control Law.

“Subdivision.” The division of a tract of land into two or more lots and shall include re-subdivision, and, when appropriate to the context, shall relate to the process of subdivision or the land or territory subdivided; provided, however, that the division of a tract of land into two or more lots shall not be deemed to constitute a subdivision within the every lot within the tract so divided has frontage on (a) a public way or a way which the clerk of the city or town certifies is maintained and used as a public way, or (b) a way shown on a plan theretofore approved and endorsed in accordance with the subdivision control law became effective in the city or town in which the land lies, having, in the opinion of the Planning Board, sufficient width, suitable grades and adequate construction to provide of the need of vehicular traffic in relation to the proposed use of the land abutting thereon or served thereby, and for the installation of municipal services to serve such land and the buildings erected or to be erected thereon. Such frontage shall be of at least such distance as is then required by zoning or other ordinance or by-law, if any, of said city or two for erection of a building on such lot, and if no distance is so required, such frontage shall be of at least 200 feet. Conveyances or other instruments adding to, taking away from, or changing the size and shape of, lots in such a manner not to leave any lot so affected without the frontage above set forth, or the division of a tract of land on which two or more buildings were standing when the subdivision control law went into effect in the city or town in which and land lies into separate lots on each of which one of such buildings remains standing shall not constitute a subdivision.

3.20 Plan Believed Not to Require Approval

Any person who wishes to cause their plan of land to be recorded in the Registry of Deeds or to be filed with the Land Court, and who believes that his plan does not require approval under the Subdivision Control Law may submit his plan and application Form A (see Appendix) to the Planning Board accompanied by the necessary evidence to show that the plan does not require approval. Said person shall file, by delivery or certified mail, such notice with the Town Clerk stating the date of submission for such determination and accompanied by a copy of said application. If the notice is given by delivery, the Town Clerk shall, if requested, give a written receipt therefore.

If the Planning Board determines that the plan does not require approval, it shall without a public hearing endorse on the plan the words “Approval under the Subdivision Control Law not required.”

The Planning Board may add to such endorsement a statement of the reason why approval is not required.

If the Planning Board determines that the plan does require approval under the Subdivision Control Law, it will so inform the applicant and return the plan. The Planning Board will also notify the Town Clerk of its action.

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

3.30 Subdivision

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

SECTION 4 PROCEDURE FOR THE SUBMISSION AND APPROVAL OF PLANS

Before preparation of an official subdivision plan it is strongly recommended that the subdivider submit a sketch plan of the proposed subdivision to the Planning Board and consult with the Board informally regarding procedures, design standards, and required improvements in order to save time and avoid costly mistakes.

A subdivision plan shall be considered as submitted to the Planning Board when delivered at a meeting of the board or when sent by certified or registered mail to the Planning Board, care of the Town Clerk, together with properly filled out application form, fee and supporting documents.

4.10 Preliminary Plan

4.101 General

A Preliminary Plan of a subdivision may be submitted by the subdivider to the Planning Board, the Board of Health, and the Conservation Commission for discussion and approval, modification or disapproval by each board. The submission of such a Preliminary Plan will enable the subdivider, the Planning Board, The Board of Health, the Conservation Commission, other municipal agencies and owners of property abutting the subdivision to discuss and clarify the problems of subdivision before a Definitive Plan is prepared. Therefore, it is strongly recommended that Preliminary Plan be filed in each case. A properly executed application Form B (see Appendix) shall be filed with the Preliminary Plan submitted to the Planning Board.

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

4.102 Contents

The Preliminary Plan shall be drawn on tracing paper with pencil at a suitable scale and two prints shall be filed at the office of the Planning Board and one print at the office of the Planning Board and one print at the office of the Board of Health. Said plan shall be identified as a Preliminary Plan and shall show the proposed names of roads or ways as well as all information described under the definition of the Preliminary Plan so as to form a clear basis for discussion of its problems and for preparation of the Definitive Plan. During discussion of the Preliminary Plan the complete information required for the Definitive Plan (Section 4.202 Contents) and the financial arrangements (Section 4.206 Performance Guarantee) will be developed.

4.103 Approval

The Planning Board may give such Preliminary Plan its approval, with or without modification. Such approval does not constitute approval of a subdivision.

4.20 Definitive Plan

4.201 General

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

- a. An original drawing of the Definitive Plan and three contact prints thereof, dark line on white background. The original drawing will be returned after approval or disapproval.
- b. A properly executed application Form C (see Appendix).
- c. Application fee of \$25.00 plus \$10.00 per lot, payable to the town of Middlefield, to cover the cost of advertising and notices, and inspections by the Planning Board.

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

4.202 Contents

The Definitive Plan shall be prepared by a professional civil engineer and land surveyor registered in Massachusetts and shall be clearly and legibly drawn with India ink of linen or tracing cloth. If multiple sheets are used, they shall be accompanied by an index sheet showing the entire subdivision. The Definitive Plan shall contain the following information:

- a. Subdivision name, boundaries, north point, date and scale.

- b. Name and address of record owner, subdivider, and engineer or surveyor.
- c. Names of all abutters as they appear on the most recent tax list.
- d. Lines and widths of existing and proposed roads, ways, easements and public or common areas within the subdivision, and the approved names of proposed roads.
- e. Boundary lines, areas and dimensions of all proposed lots, designated numerically and in sequence.
- f. Sufficient data to determine the location, direction and length of every road and way line, lot line, and boundary line, and to establish these lines on the ground.
- g. Location of all permanent monuments properly identified as to whether existing or proposed.
- h. Location, names and present widths of roads bounding, approaching or within reasonable proximity of the subdivision.
- i. Indication of the purpose of easements, and/or restrictions.
- j. Suitable space to record the action of the Planning Board, Board of Health and Town Clerk.

Note: The following items may be submitted on separate sheets.

- k. Existing and proposed topography at a suitable contour interval.
- l. Location of flood plains and wetland areas, if any.
- m. The location of natural objects and surfaces such as waterways, natural drainage courses, ledge outcroppings, stone walls, and the location of all trees in excess of eight inches in diameter within the required front yard of each lot.
- n. Overall plan for drainage of surface water.
- o. Directly above or below layout plan of each road, a profile showing existing and proposed grades along the centerline and sidelines of that road, together with figures of elevation at the top and bottom of all even grades and at 25-foot intervals along all vertical curves. Intersecting roads shall be clearly indicated on the profile. The horizontal scale of the profiles shall be 40 feet to one inch, and the vertical scale shall be four feet to one inch. Only one road plan and profile shall be drawn on a sheet except by permission of the Planning Board.
- p. Location and species of trees intended for preservation within the road rights of ways.
- q. Any other information pertaining to the natural characteristics of the site that may be needed in the opinion of the Planning Board or the Board of Health for

determination of the suitability of the land for proposed purposes shall be furnished at the developers' expense.

4.203 Environmental Impact Statement

Any land subdivision plan consisting of ten (10) or more lots must be accompanied by an impact statement which details the probable effects of the proposed subdivision on the following aspects of concern to the Town:

- a. Increases in vehicular traffic on adjacent public ways.
- b. Changes in surface drainage in surrounding areas.
- c. Land erosion or loss of tree cover.
- d. Disturbance to other aspects of the natural ecology.
- e. Demands on public services and utilities.

4.204 Plan Approval by Board of Health

- a. At the time of filing of the Definitive Plan, the subdivisions of the Definitive Plan. The Board of Health shall report to the Planning Board in writing approval or disapproval of said plan, and in the even of disapproval shall make specific findings as to which, if any, of the lots shown on such plan cannot be used for building sites without injury to the public health, and include such specific findings and the reasons thereof in such report, and where possible, shall make recommendations for the adjustment thereof. If municipal sewerage systems will serve the proposed subdivision, then failure of the Board of Health to make such a report within forty-five days after the plan is filed with their office shall be deemed approval by such board. A copy of the report, if any, shall be sent by such board to the applicant.
- b. Every lot not serviced by a municipal water supply and sewage disposal systems shall be provided with water supply and sewage disposal installations in compliance with the provisions of the State Sanitary Code subject to the approval of the Board of Health.
- c. The Board of Health may approve the plan on condition that prior to the issuance of a building permit for a dwelling on any lot, soil and percolation tests be made in accordance with their specifications by a qualified technician as the suitability of a specific location for subsurface sewage disposal installation in compliance with the State Sanitary Code.
- d. Based on the recommendation of the State Department of Public Health or the Town's Board of Health, where due to restrictive water, soil, topographic, geologic, or other natural conditions, the proposed development is of a density which exceeds the sustaining capacity of the proposed lots in terms of individual sewage disposal systems and wells on each lot, the Planning Board may require that the developer revise his plan to either provide for:

- 1) A consolidated water supply system
 - 2) A consolidated sewage disposal system
 - 3) An increase in lot size so that individual wells and sewage disposal systems may have adequate areas in which to properly function on the same lot.
- e. The Board of Health may require as a condition of the subdivision approval that a performance bond or deposit of money or negotiable securities be furnished by the subdivider to guarantee the construction of surface drainage improvements recommended by the Board and that all required improvements shall be made without causing any condition of public nuisance through dust, or surface drainage, or period of construction. Such performance guarantee may be released only after completion of the work to the satisfaction of the Board of Health. In viewing possible drainage problems the Board is not limited to lots as shown on the Subdivision plan, but may in appropriate cases consider areas outside the subdivision.
- f. Land subject to flooding or land deemed by the Board of Health to be uninhabitable shall not be approved by the Planning Board for residential occupancy, not for such other uses as may increase danger to health, life or property, or aggravate the flood hazard. Such land within the subdivision shall be set aside for such uses as proved in a manner satisfactory to the Planning Board and the Board of Health to remedy said hazardous condition.

4.205 Public Hearing

- a. Before approval of the Definitive Plan is given, a public hearing shall be held by the Planning Board. Notice of such a hearing shall be given by the Planning Board at least 14 days prior thereto by advertisement in a newspaper of general circulation in the town once in each of 2 successive weeks, the first publication being not less than 14 days before the day of such hearing, or if there is no such newspaper in the town, then posting such notice in a conspicuous place in the Town Hall for a period of not less than 14 days before the day of such hearing and by mailing a copy of such advertisement to the applicant and to all owners of land abutting upon land included in such plan appearing on the most recent tax list.
- b. The applicant and his engineer and surveyor shall be present at the public hearing.
- c. A hearing by the conservation Commission may be required under the provisions of the Wetlands Protection Act, Chapter 131, and Section 40 of the General Laws.

4.206 Performance Guarantee

Before endorsement of the Planning Board's approval of a Definitive Plan of subdivision, the subdivider shall agree to complete the required improvements specified in Section 6 for any lots in a subdivision.

Approval of the plan by the Planning Board may be made subject to condition that such approval shall automatically rescind after a period of time set by the Planning Board unless all required improvements as specified in these regulations and in the recommendations of the Board of Health have been completed within that period of time.

The construction and installation of required improvements shall be secured by one, or in part by one and in part by the other, of the following methods, which may from time to time be varied by the applicant.

a. Approved with bonds or surety

The subdivider shall either file a performance bond or a deposit of money or negotiable securities in an amount determined by the Board to be sufficient to cover the cost of all or any part of the improvements specified in Section 6 not covered by a covenant under "b" hereof.

Such bond or security, if filed or deposited, shall be approved as to form and manner of execution by the Town Counsel, and shall be contingent on the completion of such improvements within the period of time specified by the Planning Board. If the required improvements are not completed within the set period of time, the Planning Board may require an estimate of the cost of the remaining work, increase the amount of performance bond, and establish a new date for the completion of said improvements. Failure of the developer to complete the improvements within the set period of time, or any extension thereof, shall not relieve the developer from his obligation to pay for increased costs for completing the improvements in excess of his performance bond.

a. Approval with covenant.

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

4.207 Reduction of Bond or Surety

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

4.208 Release of Performance Guarantee