

SUBDIVISION REGULATIONS
TOWN OF MIDDLEBURY, CONNECTICUT

PLANNING AND ZONING COMMISSION

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SECTION 1 - GENERAL PROVISIONS

1.1 Authority and Purpose

These Subdivision Regulations for the Town of Middlebury have been adopted in accordance with, and for the purposes set forth in, Chapter 126 of the Connecticut General Statutes, as amended. They may, from time to time, be amended, changed or repealed by the Planning and Zoning Commission, as provided in Chapter 126 of the Connecticut General Statutes, as amended.

These Regulations are designed to assure that the division of tracts of land into new and smaller lots is in keeping with the character of Middlebury's diverse landscape; to provide pleasant neighborhoods in which to live; and to properly manage the burdens and demands placed by new development on the Town's infrastructure and its natural, social and economic resources.

1.2 Definitions and Common Terms

For the purposes of these Regulations, certain terms and words shall be interpreted and defined as set forth below.

Unless the context clearly indicates to the contrary, words used in the present tense include the future tense; words used in the plural number include the singular and vice versa; the word "herein" means "in these Regulations"; the word "Regulations" means "these Subdivision Regulations"; a "person" includes a corporation, a partnership, or any other legal entity; "shall" is always mandatory; "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

Other specific definitions or common terms found in these Regulations are as follows:

1.2.1 Accessway means a private way for vehicular traffic providing access to a street for not more than one interior lot, the area of which shall be computed exclusive of the area of such accessway.

1.2.2 Applicant - The landowner of record or a person properly authorized by the owner to seek approval of a subdivision or resubdivision.

- 1.2.3 Application - The completed official form by which a subdivision or resubdivision is proposed to the Commission in accordance with these Regulations, together with all required information, data, maps and plans.
- 1.2.4 Application of Regulations - No subdivision of land shall be made, nor any subdivision lot sold or offered for sale by any person, until an application for subdivision has been submitted to and given final approval by the Middlebury Planning and Zoning Commission, and a record subdivision map, as described in Article IV of these Regulations, has been endorsed by the Commission and recorded by the applicant in the office of the Middlebury Town Clerk.
- The Commission has the authority to determine if an existing or proposed division of any land constitutes a subdivision.
- 1.2.5 Area of Special Flood Hazard - Land that has a one percent (1%) or greater chance of being flooded in any given year. These lands include all areas designated as Zone A on the most recent Flood Insurance Rate Maps prepared for the Town of Middlebury by the Federal Emergency Management Agency.
- 1.2.6 Building means any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals or chattel. The word "building" shall also refer to any modification, addition or alteration to an existing building.
- 1.2.7 Commission - The Planning and Zoning Commission of the Town of Middlebury.
- 1.2.8 Dead End Street means a street only one end of which connects with another street.
- 1.2.9 Developer means any person who shall lay out for the purpose of sale or building development any subdivision or part thereof, or any resubdivision, as herein defined.
- 1.2.10 Director of Health - The official or agency authorized by the Town of Middlebury to review and approve or disapprove the location and construction of subsurface sewage disposal systems and location of wells.

- 1.2.11 **Erosion** means the detachment and movement of clay, silt, sand, pebbles, gravel and cobbles, which is influenced by soil characteristics, vegetative cover, topography, climate and dewatering by wind or water.
- 1.2.12 **Erosion and Sediment Control Plan Certification** means a signed written approval by the Commission or its designated agent that a soil erosion and sediment control plan complies with the applicable requirements of these Regulations and the Zoning Regulations.
- 1.2.13 **Lot Line** means the established division line between lots, or between a lot and a street or other proposed or dedicated public right-of-way.
- 1.2.14 **Mylar** - Polyester film having a thickness of 0.003 inches or more and suitable for a permanent drawing.
- 1.2.15 **Penalties for Violation** - Any person making a subdivision of land without the approval of the Commission shall be subject to monetary fines and such other penalties as may be provided by the Connecticut General Statutes.
- 1.2.16 **Plan of Conservation and Development** means a Plan of Conservation and Development of the Town of Middlebury, Connecticut, as adopted by the Commission, and includes all amendments and addenda thereto.
- 1.2.17 **Resubdivision** means a change in a map of an approved or recorded subdivision or resubdivision if such change:
- A. Affects any street layout shown on such map; or
 - B. Affects any area reserved thereon for public use; or
 - C. Diminishes the size of any lot shown thereon and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of such map.
- 1.2.18 **Sedimentation** is generally comprised of clays and silts (suspended load resulting in turbidity) and sand, pebbles, gravel and cobbles (bed loads moving at velocities less than the surrounding flows).

- 1.2.19 Street means any thoroughfare, including any street, avenue, boulevard, road, lane, highway, or place, and any land dedicated as a public right-of-way or private road, that affords a principal means of access to abutting property and that is approved by the Town or the State for such purposes.
- 1.2.20 Structure means anything constructed, erected or assembled on or within the ground, or attached to something located on or within the ground. The term "structure" includes, but is not limited to, any building, manufactured home, storage tank, sign, wall (retaining or otherwise) swimming pool, satellite dish, ham radio antenna, cellular or radio transmission tower, or other man-made utility or infrastructure. The term "structure" excludes public utility poles, flagpoles, transmission lines, television antennas, highway and railroad bridges, landscape furniture, fences and decorations, mailboxes, lamp posts and seasonal decorations.
- 1.2.21 Subdivision - The division of a tract or parcel of land into three or more parts or lots made subsequent to the adoption of Subdivision Regulations by the Commission as of April 1, 1957 for the purpose, whether immediate or future, of sale or building development, expressly excluding development for municipal, conservation, or agricultural purposes, and including resubdivision. Whenever the term "subdivision" is used in these Regulations, it shall be deemed to refer to both subdivision and resubdivision, unless the context is expressly more limited.
- 1.2.22 Town - The Town of Middlebury, Connecticut
- 1.2.23 Watercourses means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town or any portion thereof, not regulated pursuant to Section 22a-28 through 22a-35, inclusive, or the Connecticut General Statutes. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics: (1) evidence of scour or deposits of recent alluvium or detritus, (2) the presence of standing or flowing water for a duration longer than a particular storm incident, and (3) the presence of hydrophilic vegetation.
- 1.2.24 Wetlands means land, including submerged land not regulated pursuant to Sections 22a-28 through 22a-35 inclusive, of the Connecticut General Statutes, which consists of any of the soil

types designated as poorly drained, very poorly drained, alluvial and flood plain by the natural Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the U. S. Department of Agriculture. Such areas may include filled, graded or excavated sites which possess an aquic (saturated) soil moisture regime as defined by the USDA Cooperative Soils Survey.

SECTION 2 - APPLICATION REQUIREMENTS

- 2.1 **Preparation of the Application:** It is the applicant's responsibility to prepare and present a complete application to the Commission. Applicants are advised to review and be familiar with these Regulations.
- 2.2 **Application Requirements:** The following is a list of the documentation required as part of the application:
- 2.2.1 **Application Form** - Applications shall be made in writing on the forms provided by the Commission and available at the Land Use Office. The application form shall be signed by the applicant or his lawful agent and signed by the owner of the land or his lawful agent.
- 2.2.2 **Fees** - The fees for a subdivision application shall be in such amount as may be provided by regulation or ordinance. No application shall be processed unless all required fees are paid.
- 2.2.3 **Record Subdivision Map** - A Record Subdivision Map shall be prepared and submitted in conformance with the requirements of Sections 4.1 and 4.2 of these Regulations.
- 2.2.4 **Sewage Disposal Report** - As part of the subdivision application, the applicant shall submit a written sewage disposal report prepared by a qualified engineer (subject to the standards set forth in Section 4.1). In this report the applicant shall show that the location for the subsurface sewage disposal system for each lot meets or exceeds the most stringent applicable requirements of the State Public Health Code, as amended, and the appropriate design criteria of these Regulations. The report shall include the results of percolation tests and deep hole test pits taken at locations and times approved by the Town Sanitarian. Where there are regulated inland wetlands or watercourses on a proposed lot, wetland boundaries and watercourses must be properly marked in the field by a certified soil scientist prior to taking the percolation and deep hole tests.

It shall be the responsibility of the applicant to notify the Town Sanitarian to arrange for a site inspection for the taking of required tests. The completed sewage disposal report shall be submitted to the Town Sanitarian for review and certification prior to the approval of a subdivision application.

- 2.2.5 Water Supply Report -** When on-site water supply wells are proposed in areas of the Town identified by Town officials as having a questionable groundwater quality, the Commission may require the applicant to provide information to document the quality of the water supply.

When on-site water supply wells are proposed but not established at the time of subdivision approval, the record subdivision map shall include the following statement: "Approval of this subdivision by the Middlebury Planning and Zoning Commission cannot and does not guarantee the quantity and quality of water supply."

Where the application involves the creation or expansion of a community water system with a distribution system that supplies water for human consumption to not less than 15 service connections or 25 persons, nor more than 250 service connections or 1,000 persons, for at least 60 days in a year, then the following is required:

- A. The applicant shall provide 3 copies of an application for the approval of a Certificate of Public Convenience and Necessity to the State Department of Public Utility Control (DPUC).
- B. The Commission shall not approve a subdivision involving a water system subject to the approval of the DPUC unless and until a Certificate of Public Convenience and Necessity has been issued to the water company and a copy of same has been provided to the Commission.

- 2.2.6 Evidence of Submission to the Middlebury Conservation Commission -** Whenever an application involves land regulated as a wetland or watercourse by the Conservation Commission, the applicant shall provide a copy of the subdivision application to the Conservation Commission no later than the day it files the application with the Planning and Zoning Commission. The Planning and Zoning Commission shall give due consideration to any report filed by the Conservation Commission prior to rendering a decision on the subdivision application.

- 2.2.7 Site Development Plan -** A Site Development Plan shall be prepared and submitted for any application for a subdivision proposed for building development, whether immediate or in the future. The Site Development Plan shall conform to the requirements of Sections 4.1 and 4.3 of these Regulations.

- 2.2.8 Construction Plan and Profiles - Plans, profile drawings and typical cross-sections shall be submitted where a subdivision application involves site improvements, including streets, catch basins, manholes, ditches, watercourses and modifications, headwalls, sidewalks, curbs, bridges, culverts, or any other structures or improvements. The Construction Plans and Profiles shall conform to the requirements of Sections 4.1 and 4.4 of these Regulations.
- 2.2.9 Grading Plan - A Grading Plan shall be prepared and submitted for any application for a subdivision prepared for development, whether immediate or in the future. The Grading Plan shall conform to the requirements of Sections 4.1 and 4.5 of these Regulations. The Commission may permit the Grading Plan to be combined with the Site Development Plan where the complexity of the Site Development Plan is minimal.
- 2.2.10 Erosion and Sediment Control Plan - An Erosion and Sediment Control Plan shall be prepared and submitted for certification by the Commission with any application where the cumulative disturbed area is or would be more than one-half acre. The Erosion and Sediment Control Plan shall conform to the requirements of Sections 4.1 and 4.6 of these Regulations. The Commission may permit the Erosion and Sediment Control Plan to be combined with the Site Development Plan and/or the Grading Plan where the complexity of the Site Development Plan and/or Grading Plan is minimal.
- 2.2.11 Drainage Reports - The Drainage Report shall be prepared by a civil engineer licensed in the State of Connecticut. It shall meet the requirements of Section 7 and shall include, at a minimum, a base map prepared in accordance with Section 4.1 showing the drainage watershed, flood plain boundaries and elevations, and drainage patterns. It shall also show the methodology and computations used to calculate storm water runoff and the recommended pipe sizes.
- 2.2.12 Permits and Agreements - Copies of other permit applications given to local, state or federal agencies relating to the subdivision application, and copies of letters advising the utility company of the proposed development shall be submitted and their responses thereto.
- 2.2.13 Supplemental Data - The Commission may require the applicant to submit other data and information in order to establish that the proposed subdivision complies with the requirements of these

Regulations.

- 2.2.14** **Previous Divisions and Transfers of Ownership** - The applicant shall submit an affidavit listing all divisions and transfers of ownership that have affected the property to be subdivided since April 1, 1957. If the property to be subdivided was previously part of a larger lot or parcel that was divided after April 1, 1957, the affidavit must list all divisions and transfers of ownership that affected the larger lot or parcel after that date. The applicant must also state whether any such divisions were approved by the Commission and, if so, on what date.
- 2.2.15** **Authorization to Enter Subdivision** - A written instrument in form satisfactory to Town Counsel and signed by the owner authorizing the proper agents of the Commission and the Town to enter upon the area included in the subdivision to such extent and at such times as may be necessary between submission of the application and the completion of all improvements authorized or required by the Commission and the Board of Selectmen for the purposes of assuring that such improvements are constructed in accordance with the specification and other conditions prescribed by the Commission and the Board of Selectmen as provided for in the Regulations.

SECTION 3 - APPLICATION PROCEDURE

- 3.1 **Submission of Application:** An application meeting all the requirements of Section 2 shall be submitted at the land use office during normal working hours and shall be dated as of the actual date submitted which shall be at least ten (10) calendar days before a regularly scheduled meeting of the Commission to be assured of consideration at that meeting. The applicant shall submit an original and six copies of all required maps, plans and reports. Additional copies shall be provided by the applicant when requested by the Commission.
- 3.2 **Acceptance of the Application:** At its next regularly scheduled meeting following submission of an application within the time limit specified in Section 3.1 of these Regulations, the Commission shall determine whether the application has been submitted in the required form and whether it is complete. Applications that are not in the proper form, are not properly signed, or are not accompanied by the required fees shall be rejected by the Commission. If the application is incomplete for other reasons, the Commission may nonetheless accept the application for further consideration. The applicant has the burden to submit a complete application. The acceptance of an incomplete application for consideration is intended solely to comply with statutory time requirements and shall not be deemed to be a finding by the Commission. Submission of an incomplete application is sufficient grounds for the Commission to deny the application.

Upon acceptance of an application, the Commission shall set a date for a public hearing for resubdivision and subdivisions of three (3) or more lots or, if deemed appropriate, subdivisions containing less than three lots for which it would be in the public interest to hold a public hearing.

3.3 **Referrals:**

- 3.3.1 **Regional Referral** - As required by State law, where a proposed subdivision abuts or includes land in another municipality, the Commission, before deciding upon the application, shall submit it for an advisory report to the regional planning agency for the region in which the other municipality is located. If the regional planning agency does not respond within thirty (30) days after transmittal of the application, the Commission shall presume that the agency does not disapprove of the proposed subdivision.
- 3.3.2 **Other Referrals** - A copy of the application shall be referred to other Town boards and commissions, and to other municipalities and governmental agencies for review and comment. The Commission

shall notify the clerk of any adjoining municipality of the pendency of any application for a subdivision whenever: (1) any portion of the property to be subdivided is within five hundred (500) feet of the boundary of the adjoining municipality; (2) a significant portion of the traffic to the subdivision would use streets within the adjoining municipality to enter or exit the site; (3) a significant portion of the sewer or water drainage from the subdivision would flow through and significantly impact a drainage or sewerage system within the adjoining municipality; or (4) water runoff from the improved subdivision would impact streets or other municipal or private property within the adjoining municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed within seven (7) days after receipt of the application.

3.3.3 Record to Include Referral Reports - Reports and recommendations received from any referrals shall become part of the record of the application.

3.3.4 Effect of Failure to Refer - These referral provisions are intended in large part to comply with State law. The failure of the Commission to make any such referral in a proper or timely fashion shall not affect the validity of any decision it renders on an application unless otherwise provided or required by State law.

3.4 Field Review: The Commission member or members may inspect the subdivision site. The Commission may also require that the site be inspected by Town staff and/or consultants.

3.5 Assistance in Commission Review: In its review of any application, the Commission shall request the review, comment and assistance of the Fire Marshal, Police Chief, other Town, regional or State Agencies, boards, commissions, or officials, or private technical or legal advisors.

3.6 Public Hearing:

3.6.1 Hearing on Resubdivisions Required - If the Commission determines that an application constitutes a resubdivision, a public hearing shall be held on the application as required by State law.

3.6.2 Hearing on Other Subdivisions - Upon acceptance of an application, the Commission shall set a date for a public hearing for resubdivision and subdivisions of three (3) or more lots or, if deemed appropriate, subdivisions of less than three lots.

3.6.3 Public Notice - Public notice of any public hearing shall be given by

the Commission as required by State law. The applicant shall provide a list of names of all current adjoining and across the street property owners of record and notify each adjoining and across the street property owners of the public hearing by certified mail and return receipts.

- 3.7 **Waiver:** Pursuant to the intent and purpose of Section 8-26 of the Connecticut General Statutes, as amended, the Commission may waive any requirement under these Regulations by a three-quarters (3/4) vote of all members of the Commission. In considering such waiver or waivers, the Commission shall take into account:
- 3.7.1 That such waiver or waivers are based on conditions which affect the subject land and are not generally applicable to other land in the area;
 - 3.7.2 That such waiver or waivers will have not significant adverse effect on public health and safety;
 - 3.7.3 That such waiver or waivers will be compatible with the objectives of any short-range or long-range provisions of the Plan of Conservation and Development for the area or the community;
 - 3.7.4 That such waiver or waivers will not have a significant adverse effect on the appropriate and orderly development of the area or district;
 - 3.7.5 That such waiver or waivers shall not hinder or discourage the appropriate development or use of land and buildings in adjacent properties, not impair the value thereof;
 - 3.7.6 That such waiver or waivers will permit the retention and protection of historic, aesthetic, and other natural or man-made features and assets which, the Commission's judgment, contribute significantly in determining and enhancing the character of the area, or particular subdivision or resubdivision tract;
 - 3.7.7 That strict compliance with the specific standard or standards will render the land under consideration, or portions thereof, virtually undevelopable; or
 - 3.7.8 That strict compliance with specific standard or standards will not do justice to the land's particular physiography and thus outweigh the benefits to be derived from such strict compliance.

- 3.8 **Decision:** The Commission shall approve, approve and modify, or disapprove the application, entering into the records its reasons for such action, and shall publish and communicate its decision as required by State law.
- 3.9 **Completion of Required Modifications and Conditions:** When the Commission modifies and approves an application it shall promptly advise the applicant of the required modifications to the maps, plans or other application documents. No application shall be endorsed for filing until the required modifications have been completed and submitted in the final required form.

An engineer's detailed estimate of the cost of construction of all site improvements shall be submitted to the Board of Selectmen's office.

All approvals shall be conditioned upon the applicant's presentation and recording of any deeds or easements required by the Commission, including instruments proposed to be executed or delivered after approval of the application, and upon the applicant's execution and filing of any required performance guarantees in the form prescribed under Section 8.

All proposed deeds, easements and other documents required to be recorded on the land records as a condition of approval are to be reviewed and approved by Town Counsel. Proposed deeds need to be forwarded to the Planning & Zoning Office with the final mylar map and required paper copies.

Certificates of title must be issued with proposed deeds showing no encumbrances affecting the title to any transfers required to be given to the Town.

All deeds which shall be warranty deeds to be given to the Town are to be duly executed and given to Town Counsel, along with proper conveyance tax forms, who will hold same in escrow pending final acceptance of the street or other public property. All street or other public property deeds must clearly identify the name of the street to be conveyed and center line of the street. The placing of such deeds in escrow will not be considered a conveyance to the Town until the constructed street is accepted by the Board of Selectmen. The Town accepts no responsibility for any streets until formal acceptance and the recording of the street deed.

All of the above required modifications, information, documents, and performance guarantees shall be submitted within forty-five (45) days after the date of the Commission's approval. If such materials are not submitted within that time period, an extension of time may be extended by the Commission as specified in Section 3.10.

The subdivision plan shall not be endorsed by the Chairman or Secretary of

the Commission nor delivered to the applicant for filing until the performance guarantee has been received, and until the deeds or easements have been received and reviewed by the Commission's attorney, and until all required modifications to the subdivision map or other documents have been completed.

- 3.10 Endorsement and Filing of Approved Record Subdivision Map: Upon the submission of any required easements, deeds, performance guarantees, maps, plans or other materials the Chairman or Secretary of the Commission shall endorse the approved record subdivision map, which may then be filed or recorded by the applicant in the office of the Town Clerk. The date of endorsement and the date upon which the subdivision approval will expire under State law (see also Section 3.11 of these Regulations) shall be noted on the map by the Chairman or Secretary of the Commission. Filing and recording fees shall be paid by the applicant. A subdivision map filed or recorded without such endorsed approval shall be void. The endorsed record subdivision map shall be filed or recorded within ninety (90) days following the expiration of the appeal period on the subdivision approval, or, if an appeal was taken, within ninety (90) days following the termination of the appeal by settlement, withdrawal or judgment in the applicant's favor. If the map is not so filed within such time, it shall become null and void, except that the Commission may extend the time for such filing for two (2) additional periods of ninety (90) days and the plan shall remain valid until the expiration of such extended time.

The endorsed Record Subdivision Map, and any other maps and plans showing modifications upon which final approval of the application for subdivision was conditioned, shall constitute the approved subdivision. No work included in the subdivision application, including construction, grading, paving, and so forth, shall be commenced, nor shall permits be issued, including zoning, building, driveway and/or sanitation, for any of the lots until the record subdivision map has been endorsed and recorded.

- 3.11 Submission of As-Built Plans: Upon the completion of any improvements included in an approved application for subdivision, the applicant shall file with the Commission construction plans meeting the standards of Section 2.2.8, showing the streets, drainage and other subdivision improvements as built and also showing the location of any water mains, and underground electric, telephone and other utilities. In lieu of such submission, the applicant's land surveyor and/or engineer may update and certify the mylar construction plans submitted under Section 4.4 and approved by the Commission. Such filing shall also include a certification, signed and sealed by a professional engineer licensed to practice in the State of Connecticut, that such surveyor and/or engineer has inspected all construction work and all improvements have been completed in accordance with plans and specifications approved by the

Commission.

3.12 Completion of Improvements and Expiration of Subdivision Approval: The Commission shall require compliance with Section 8.26c and 8.26g of the Connecticut General Statutes, as follows:

- 3.12.1** Except as provided hereafter, any person, firm or corporation making any subdivision of land shall complete all work in connection with such subdivision within five (5) years after the approval of the plans for such subdivision. The Commission's endorsement of approval on the plans shall state the date on which such five-year period expires.
- 3.12.2** Failure to complete all work within such five-year period shall result in automatic expiration of the approval of such plan, provided the Commission shall file on the land records of the Town of Middlebury notice of such expiration and shall state such expiration on the record subdivision maps on file in the office of the Town Clerk. No additional lots in the subdivision shall be conveyed by the subdivider or the subdivider's successor in interest except with the approval by the Commission of a new application for subdivision of the subject land. If lots have been conveyed during such five-year period, the Town shall call the performance guarantee or other surety on the subdivision to the extent necessary to complete the required improvements and utilities for such lots.
- 3.12.3** "Work" for the purposes of this section shall mean all physical improvements required by the approved plan, other than the staking out of lots, and includes but is not limited to the construction of roads, storm drainage facilities and water and sewer lines, the setting aside of open space and recreational areas, installation of telephone and electric services, planting of trees or other landscaping, and installation of retaining walls or other structures.

SECTION 4 - SPECIFICATIONS FOR MAPS AND PLANS

This article provides the detailed specifications and information that must be shown on the various maps and plans required as part of a subdivision application. Each map or plan serves a different purpose and must provide certain information related to that purpose. The Record Subdivision Map is intended to be suitable for permanent filing in the Town Land Records. The Site Development Plan must show all existing conditions and proposed development so that the Commission can properly evaluate the proposed design and layout of the subdivision. The Erosion and Sediment Control Plans must specify how erosion will be avoided and contained as required by State law. The Construction Plan must specify the location and design of proposed site improvements for streets, storm drains, catch basins, headwalls, watercourses, sidewalks, underground utilities and other structures and improvements.

See also Section 2 - Subdivision Application Requirements

- 4.1 Maps, Plans and Reports to be Prepared by Professionals: The maps, plans and reports required by these Regulations shall show and contain the information and shall be prepared in accordance with the standards specified herein. All such maps, plans and reports shall be prepared by and bear the name, seal and signature of a professional engineer, land surveyor or other appropriate professional, licensed as may be required by State law. Pertinent survey data and computations shall be presented to the Commission for review upon request.
- 4.2 Record Subdivision Map: The Record Subdivision Map shall be prepared with an accuracy meeting or exceeding standards for a "Class A-2" type of survey as defined in the "Minimum Standards for Surveys and Maps" found in Sections 20-300b-1 to 20-300b-20 of the Regulations of Connecticut State Agencies, effective June 21, 1996. The Commission may require the map to be prepared to other standards of accuracy to the extent authorized by State law or regulations, but in no case shall the Commission accept dependent resurvey (i.e., a survey made by a surveyor who is relying on a prior survey). The map shall be clearly and legibly drawn on 24" x 36" sheets, on good quality mylar that would be acceptable for recording in the Town Land Records pursuant to Section 7-31 of the Connecticut General Statutes, as amended. The map should be drawn to a scale of one inch equals forty feet (1"=40'). The Commission, at its discretion, and with conditions, may permit the scale of the map to be one inch equals 100 feet (1"=100'). In the event the entire subdivision cannot be shown on one drawing without exceeding these scale limitations, two or more drawings (referred to collectively in these Regulations as the "map") with suitable match lines shall be submitted. Six prints of the map shall be submitted to the Commission. Prior to approval two

good quality mylars shall be submitted to the Commission, one of which is for filing in the office of the Commission. The map shall show the following:

- 4.2.1 Title of subdivision and the Town and State, which shall not duplicate the title of any previous subdivision in the Town.
- 4.2.2 Name and address of the owner of the land to be subdivided, and name and address of the applicant if different from the owner.
- 4.2.3 Date, scale and true and magnetic north points.
- 4.2.4 Existing and proposed property and street line, as well as all other property lines and street lines within a distance of two hundred (200) feet of the proposed subdivision, minimum setbacks and minimum square and the names of all adjacent and across the street property owners and, if appropriate, subdivisions.
- 4.2.5 All wetlands and watercourses, as defined by State law and as regulated by the Middlebury Conservation Commission, and all setbacks and monuments required by that Commission.
- 4.2.6 Areas of special flood hazard. When a subdivision does not include any area of special flood hazard, the following notation shall be included on the map: "This subdivision does not include land areas of special flood hazard as defined under Section 53 of the Zoning Regulations."
- 4.2.7 Proposed easements, rights-of-way, encroachment lines, and areas reserved for drainage, watercourses, wetlands, stream protection, and conservation; and the limits of any areas to be reserved or protected from excavation or filling.
- 4.2.8 Proposed lots and lot numbers; existing and proposed open spaces for parks, stream protection and other open spaces; the square footage and acreage of all lots and open spaces; and the total acreage of land included in the subdivision.
- 4.2.9 Existing buildings and structures.
- 4.2.10 Dimensions on all lines to the hundredth of a foot; all bearings or deflection angles on all straight lines, and the central angle, tangent distance and radius of all arcs.
- 4.2.11 The width of all existing and proposed streets, rights-of-way and easements; street names; existing and proposed monuments and

the location of stone walls on boundary lines.

- 4.2.12 All Town boundary and zoning district boundary lines within a distance of two hundred (200) feet of the subdivision.
- 4.2.13 A location map showing the subdivision in relation to existing streets in the Town at a scale of not less than 1"=1000'.
- 4.2.14 If the proposed subdivision is divided into sections or is of such size that more than one sheet is required, an index map showing the entire subdivision with lots, lot numbers, streets, street names, and delineation of areas covered by each section or sheet.
- 4.2.15 Where practical, the survey relationship of proposed streets to nearby documented Town streets or State highways.
- 4.2.16 The following approval and endorsement blocks, as may be appropriate:
 - A. The words "Approved by the Board of Selectmen" with a designated place for the signature of the First Selectman and the date of signing.
 - B. The words "Approved by the Middlebury Health Office" with a designated place for the signature of the Director of Health and the date of signing.
 - C. The words "Approved by the Conservation Commission" with a designated place for the signature of the Chairman or Secretary of that Commission and the date of signing, when the subdivision requires regulated activities under the jurisdiction of that Commission.
 - D. The words "Approved by the Planning and Zoning Commission" with a designated place for the signature of the Chairman or Secretary of the Commission and the date of signing.
- 4.2.17 The certification, original signature and embossed seal of the Connecticut licensed land surveyor and such other additional requirements as may be specified pursuant to Section 4.2 of these Regulations.
- 4.3 Site Development Plan: The Site Development Plan shall be drawn to a scale of not less than one inch equals forty feet (1"=40'). The plan shall show

existing conditions and the proposed layout of lots, streets and improvements for the proposed subdivision and for all contiguous land of the applicant that may be subdivided in the future, in order to allow the Commission to complete a planning review of the proposed subdivision, including its relationship to the future subdivision of contiguous land of the applicant. In the event the entire subdivision cannot be shown on one drawing without exceeding the scale limitations, two or more drawings with suitable match lines shall be submitted. Six prints of the plan shall be submitted to the Commission. A good quality mylar shall be submitted to the Commission prior to approval for filing in the office of the Commission. The plan shall show at least the following information:

- 4.3.1 Title of the subdivision.
- 4.3.2 Name and address of the owner of the land to be subdivided and name and address of the applicant if different from the owner.
- 4.3.3 Date, scale and true and magnetic north points.
- 4.3.4 Existing and proposed property and street lines within a distance of two hundred (200) feet of the proposed subdivision, minimum setbacks and minimum square and the names of all adjacent property owners and across the street and, if appropriate, subdivisions.
- 4.3.5 Existing and proposed easements, rights-of-way, encroachment lines and reservation areas for drainage, watercourses, wetlands, stream protection, and conservation and any areas of Special Flood Hazard.
- 4.3.6 All regulated wetlands and watercourses. Wetlands must be delineated by a certified soil scientist, and the plan shall show the location and number of the wetland boundary flags or markers and the regulated area boundary as defined by the Wetland and Watercourse Regulations.
- 4.3.7 Proposed wetlands and watercourses, including ponds and swamps, and other land that may be subject to potential flooding following completion of the subdivision.
- 4.3.8 The boundaries and classification codes of soil types under the National Cooperative Soils Survey of the Soil Conservation Service, U.S. Department of Agriculture.
- 4.3.9 Existing topographic contours, at an interval not exceeding five (5)

feet on steep land and not exceeding two (2) feet on other land, based on field or aerial surveys or other suitable sources and keyed to town, State or U.S. benchmarks where such are located within one-half mile of the subdivision boundary.

- 4.3.10 Location of historical and/or archeological sites.
- 4.3.11 Principal wooded areas, and any ledge outcrops and existing stone walls and fences within the subdivision.
- 4.3.12 Proposed lots and lot numbers, existing and proposed open spaces for parks, playgrounds, stream protection and other open spaces.
- 4.3.13 Dimensions on all proposed property and street lines, lot areas and the total acreage of land included in the subdivision.
- 4.3.14 The building area of the lot, including a location for a proposed dwelling or other principal building on each lot, the potential location of the subsurface sewage disposal system including primary and reserve leaching fields, well location and driveway corridors and the approximate location of any percolation seepage test holes, deep test pits and borings; locations proposed for water supply well sites; and the location and dimensions of the areas suitable for leaching fields for on-site sewage disposal systems and the reserve areas for future fields.
- 4.3.15 Proposed width of all streets, rights-of-way and easements; the proposed width of all pavement; proposed street names; and existing and proposed monuments.
- 4.3.16 All Town boundary and zoning district boundary lines within a distance of two hundred (200) feet of the subdivision.
- 4.3.17 Existing and proposed storm drains, catch basins, manholes, ditches, watercourses, headwalls, sidewalks, gutters, curbs and other structures.
- 4.3.18 Spot elevations on both existing and proposed roads to indicate tentative grading of roads.
- 4.3.19 The limits of any areas proposed for regrading by excavation or filling; and the limits of any areas proposed to be reserved and protected from excavation or filling.
- 4.3.20 The limits of any areas of tree removal that would be necessary to

provide effective use of a passive solar energy system on each lot, based on an assumed mature tree height of 50 feet.

- 4.3.21 Location of exposed rock and slopes in excess of twenty-five percent (25%).
- 4.3.22 The words "Approved by the Middlebury Health Office" with a designated place for the signature of the Director of Health and the date of signing.
- 4.3.23 The original signature(s) and embossed seal(s) of the Connecticut licensed land surveyor and the professional engineer, and the signature of the sanitarian, sanitary inspector, or professional engineer who prepared the test pits and percolation holes.

4.4 Construction Plans: Construction Plans and Profile Drawings shall be prepared and submitted for all proposed streets, storm drains, gutters, catch basins, ditches, watercourses, headwalls, sidewalks, curbs, underground utilities and other structures and improvements. These drawings shall be on good quality polyester mylar on a sheet size of 24" x 36", and shall be acceptable for filing in the Town Land Records pursuant to Section 7-31 of the Connecticut General Statutes. The plans and profiles shall be drawn to a horizontal scale of 1"=40' and a vertical scale of 1"=4'. The elevations on plans and drawings shall be based on official town, State or U.S. bench marks. The bench marks used shall be noted on the plan. Six prints of the plans and profiles shall be submitted to the Commission. A good quality mylar of the plans and profiles shall be submitted to the Commission prior to approval for filing in the office of the Commission. Construction Plans shall show at least the following information:

- 4.4.1 Title of the subdivision, date, scale, and true and magnetic north points.
- 4.4.2 Location of lot lines intersecting the street line, lot numbers and street names.
- 4.4.3 For streets, all information required by the Road and Drainage Regulations of the Town of Middlebury.
- 4.4.4 All roadways and easements stationed along their center lines. At intersecting roadways, the "zero" station for the side road shall be the point at which the side road center line intersects the main road center line.
- 4.4.5 Plans and profiles of existing roadways, on each side of their

intersections with proposed new streets, for the length of the sight distances required under the Road and Drainage Regulations of the Town of Middlebury.

- 4.4.6 These plans and profiles must show all of the information required under this Section 4.4 for proposed new streets.
 - 4.4.7 Depth, invert, slope and size of all pipes, ditches, culverts, catch basins, headwalls and watercourses; and ditch and watercourse cross sections. The top of frame or rim elevations and station offsets shall be shown for all structures. The Commission may require additional cross sections in order to review upstream and downstream hydraulic conditions.
 - 4.4.8 Sidewalks, curbs, gutters, and other structures and underground utilities.
 - 4.4.9 Detailed drawings of any bridges, box culverts, deep manholes, and other special structures.
 - 4.4.10 The station-offset for all proposed monuments.
 - 4.4.11 The words "For location of underground electric, telephone and other facilities of public utilities, inquire of appropriate utility company."
 - 4.4.12 Methods of erosion control during construction.
 - 4.4.13 Sufficient detail so as to be considered suitable for construction.
 - 4.4.14 Original signature and embossed seal of the Connecticut licensed professional engineer responsible for preparing the plans.
 - 4.4.15 The words "Approved by the Middlebury Planning and Zoning Commission" with a designated place for the signature of the Chairman or Secretary and the date of signing.
 - 4.4.16 The words "Approved by the Board of Selectmen" with a designated place for the signature of the First Selectman and the date of signing.
- 4.5 Grading Plan: A Grading Plan shall be provided to the Commission, depicting all proposed regrading, cuts, fills, and soil and rock removal on the site. The grading plan shall be submitted on mylar that would be acceptable for filing in the Town Land Records pursuant to Section 7-31 of the Connecticut General

Statutes, as amended, to the same size and scale as required for construction plans pursuant to Section 4.4 of these Regulations. Contours and elevations as specified in Section 4.3.9 of these Regulations. Topographic accuracy shall be T-2 for ground survey procedures and T-3 for topographic maps based on photogrammetric maps. Six prints of the plans shall be submitted to the Commission. A good quality mylar shall be submitted to the Commission prior to approval for filing in the office of the Commission. The grading plan shall show at least the following information:

- 4.5.1 Title of the subdivision.
- 4.5.2 Name and address of the owner of the land to be subdivided, and the name and address of the applicant, if different from that of the owner.
- 4.5.3 Date, scale, true and magnetic north points.
- 4.5.4 Layout of existing and proposed lot lines, street lines and minimum setbacks.
- 4.5.5 Existing and proposed contours at an interval not exceeding five (5) feet on steep land and not exceeding two feet (2') on other land based on a field or aerial survey. The datum for all elevations shall be a U.S. Geological Survey datum.
- 4.5.6 Existing and proposed drainage and watercourses.
- 4.5.7 Existing and proposed buildings and structures.
- 4.5.8 The location of exposed rock and slopes in excess of twenty-five percent (25%).
- 4.5.9 Locations of all test holes, test pits and borings.
- 4.5.10 The quantities of material, measured in cubic yards, to be cut and filled on the site and the quantities and types of any materials to be brought onto or removed from the site.
- 4.5.11 Methods of erosion control as specified in Section 4.6 of these Regulations.
- 4.5.12 Cross-section drawings covering proposed areas of excavation, if requested by the Commission.
- 4.5.13 Original signature and embossed seal of a Connecticut licensed

land surveyor and professional engineer.

- 4.6 **Erosion and Sediment Control Plan:** An Erosion and Sediment Control Plan shall be submitted for certification by the Commission with any application for a subdivision when the cumulative disturbed area is or will be more than one-half acre. The plan shall be prepared in accordance with the provisions of Sections 4.3.6, 4.3.7, 4.3.8 and 4.5 of these Regulations and shall contain all of the information required by Section 68 of the Middlebury Zoning Regulations. Where the applicant proposes to sell lots for future building development, the Commission may, in its discretion, require that a detailed erosion and sediment control plan associated with the development of specified subdivision lots be part of the application for any zoning or building permit and be certified by the Commission or its authorized agent prior to issuance of the permit. In such cases, a statement to that effect shall be shown on the record subdivision map. Six prints of the plans shall be submitted to the Commission. A good quality mylar shall be submitted to the Commission prior to approval for filing in the office of the Commission.
- 4.6.1 **General Information and Requirements:** A soil erosion and sediment control plan shall contain proper provisions to adequately control accelerated erosion and sedimentation and reduce the danger from storm water runoff on the proposed site based on the best available technology.
- 4.6.2 **Issuance of Denial of Certification:** The Commission shall either certify that the soil erosion and sediment control plan complies with the requirements and objectives of these Regulations or deny certification when the development proposal does not comply with these Regulations.

SECTION 5 - GENERAL STANDARDS

- 5.1 Purpose for Design and Construction Standards:** All subdivisions shall be designed according to the design and construction standards of these Regulations and to meet the objectives for conservation and development stated in the Middlebury Plan of Conservation and Development. The purpose of these standards is to assure that the subdivision and development of land will be designed and constructed:
- 5.1.1** To protect and promote the public health, safety and welfare; and to preserve Middlebury's diverse system of open spaces and its residential, semi-rural and rural character;
 - 5.1.2** To avoid development of land that is not suitable for development; and to preserve wetlands, watercourses, ponds and lakes and their water quality;
 - 5.1.3** To encourage subdivision design that protects and conserves unique and fragile natural resource lands; and to preserve ridge lines and scenic vistas;
 - 5.1.4** To create buffers between existing and proposed development.
- 5.2 General Standards for Subdivision Design:** In order to serve the purposes of subdivision regulations as set forth in Chapter 126 of the Connecticut General Statutes, and especially to insure proper provisions for protection of irreplaceable resources and unique and fragile features of value to the Town of Middlebury and the State of Connecticut, applicants are encouraged to design subdivisions to avoid development of house sites, septic fields, driveways, streets or other development improvements on the types of land described below and to protect these lands from harmful effects.
- 5.2.1** Special flood hazard areas
 - 5.2.2** Wetlands and watercourses as defined by State law and regulated by the Middlebury Conservation Commission.
 - 5.2.3** Streambelt land areas as shown on the Town Plan of Conservation and Development

In order to reduce the adverse impact of a development affecting the lands described above, the Commission may require the redesign of a subdivision including road alignments, lot lines, lot area, location and scale of structures and location of reserved open space.

5.3 Lots and Lot Layout and Building Setback:

- 5.3.1** Each lot shall conform to the area, dimensions, frontage and other requirements of the Middlebury Zoning Regulations
- 5.3.2** Each lot shall be of sufficient area and shall have a shape and terrain that will permit a suitable location for all of the following: a building site, septic system leaching fields and reserve fields including required setbacks, a well-water supply source with required separating distances, necessary storm water retention areas and drainage areas, and a driveway corridor.
- 5.3.3** The buildable area on each lot shall be the area of the lot proposed as suitable for the location of the building site, septic leaching fields (including reserve fields), well site and driveway corridor. The buildable area, showing each of these locations, shall be clearly defined.

5.4 Solar Access: Applicants are encouraged to utilize energy-efficient patterns of development and land use, the use of solar and other renewable forms of energy and energy conservation. Applicant shall demonstrate to the Commission that in developing the subdivision plan, consideration has been given to passive solar energy techniques that would not significantly increase the cost of housing to the buyer. Passive solar energy techniques mean site design techniques that maximize solar heat gain, minimize heat loss and provide thermal storage within a building during the heating season, and minimize heat gain and provide for natural ventilation during the cooling season.

- 5.4.1** Site design considerations shall include but not be limited to house orientation, street and lot layout, vegetation, natural and man-made topographic features and protection of solar access within the development.

For standards refer to "Site Planning for Solar Access", U.S. Department of Housing and Urban Development, HUD-PD12-481(2).

5.5 Driveways and Accessways: All lots shall have land for the location of a driveway that is suitable for safe access. The applicant shall demonstrate to the satisfaction of the Commission that the location of the driveway meets the standards and specifications of the Town of Middlebury Ordinance Concerning Residential Driveways and that driveway intersections with the street shall be located to provide adequate sight line distances based upon the street traffic volume and conditions and requirements of the Board of Selectmen.

- 5.6 Fire Ponds: The Commission may, in its sole discretion, require, for fire protection, the construction of ponds and water storage tanks, including dry hydrants, in any subdivision. The ponds shall be constructed in accordance with the standards and practices of the U.S.D.A. Soil Conservation Service and shall have a minimum capacity as determined by the Commission after consulting with the Chief of the Middlebury Fire Department. The fire pond shall be accessible from a street via a right-of-way in favor of the Town, and the right-of-way shall have a width of at least thirty (30) feet to allow emergency vehicles clear and safe entry, free of trees, brush and other objects.
- 5.7 Open Space Requirement: The Applicant shall provide no less than twenty percent (20%) of the land included within a proposed subdivision for suitable open space, park or playground use. The designated open space shall be permanently protected as approved by the Commission and Town Counsel. The land set aside for open space may include wetlands and steep slopes in excess of 25%, provided that the percentage of steep slopes and wetlands does not exceed the percentage of these categories for the total subdivision. As determined appropriate by the Commission, the open space requirement may be met by simple donation of land as designated in 5.7.1 or by fee in lieu of open space for a parcel of 10 acres or less as designated in 5.7.2 below.

To the extent possible, the land so reserved shall be chosen in accordance with the recommendations of the Town's Plan of Conservation and Development. Open space shall be chosen on the basis of its value in protecting and conserving natural resources including but not limited to ridge lines, woodlands and farm lands, in protecting cultural and historical values, in enhancing living conditions, and in creating recreational opportunities. Of special interest are areas providing for the expansion of already existing open or recreational space and areas which reinforce the rural and semi-rural character of the Town. The area chosen to meet the open space requirement and the uses to which it will be put are ultimately at the discretion of the Commission. All such reserved open space shall have proper pedestrian and/or vehicular access as deemed necessary by the Commission.

- 5.7.1 Ownership of Open Space: The applicant or Commission may propose the recipient of the easement or deed to the preserved open space area, but in all instances the final decision shall be the responsibility of and at the discretion of the Commission. The form of ownership may be any one of the following:
- A. Be dedicated to the Town by deed acceptable to Town Counsel, provided the Board of Selectmen has voted to accept such dedication. The open space area may be dedicated to the Town when it offers opportunities for active or passive recreation to

residents of the Town or contains natural resources of value to the Town as indicated in the Plan of Conservation and Development.

- B. Be conveyed to a nonprofit land conservation organization, such as the Middlebury Land Trust, and be subject to the same conditions, restrictions and agreements contained in the deed, acceptable to Town Counsel and approved by the Commission. The open space area may be conveyed to a nonprofit land conservation organization when it contains significant natural features or wildlife habitats and is adjacent to or would add value to other properties owned by such an organization.
- C. Be conveyed to a homeowner's association, a private association of owners of the lots within the subdivision. Such a homeowner association shall be legally established according to procedures and requirements approved by Town Counsel. The open space area may be conveyed to a homeowner's association when it is to be used by the residents of the subdivision as natural buffer or for passive recreation. The Town shall be given a conservation easement on the open space owned by the homeowners association.

5.7.2 Payment of Fee in Lieu of Open Space: The payment or combination of payment and the fair market value of land transferred shall be in accordance with Section 8-25 Subdivision of Land of the Connecticut General Statutes at the discretion of the Commission.

5.7.3 Use of Open Space Land: Open space land shall be limited to appropriate conservation, open space and recreational purposes as determined and approved by the Commission. The use of the open space must be designated on the subdivision plan. The use of open space shall not be for the deposit of debris and shall not be excavated, filled or re-graded and trees shall not be removed therefrom, except in accordance with the grading plan submitted under Section 4.5 of these Regulations.

5.8 Interior Lots: Interior lots, as defined in the Middlebury Zoning Regulations, shall not be permitted except as otherwise expressly provided in those regulations.

SECTION 6 - STREET STANDARDS

- 6.1 Construction Specifications and Requirements: The construction plans for streets required by these Regulations shall be in accordance with the Town of Middlebury Road and Drainage Regulations and approved in writing by the Board of Selectmen. All construction of such improvements shall be carried out subject to supervision and inspection by the Board of Selectmen or their authorized agent and shall be built in accordance with Road and Drainage Regulations. Where there is a conflict between the Road and Drainage Regulations and these Regulations, the more restrictive requirements shall apply.
- 6.2 Street Classification: All streets in a subdivision will be classified in accordance with the standards contained in Middlebury's Plan of Conservation and Development. Where the Plan of Conservation and Development proposes future streets that cross or abut the subdivision, the subdivider may be required to construct those streets to the standard proposed.
- 6.3 Street Planning: Proposed streets and rights-of-way shall be planned in accordance with the following criteria:
- 6.3.1 Streets shall provide safe and convenient circulation for both present and prospective traffic within the subdivision and within the neighborhood where the subdivision is located.
- 6.3.2 Proposed streets shall be appropriate to the topography and location. Street patterns shall give consideration to contours and natural features and shall be designed in a manner capable of public use and maintenance by the Town. Streets should in general follow the contour of the land, and the applicant should, as far as practical, consider street alignments along an east-west axis within 30° of either side of true east to encourage the development of buildings facing true south; and should have a location and grade that accomplishes an attractive layout and development of the land that preserves natural terrain, wetlands, water courses, large isolated trees and desirable woods and other vegetation, and that will enhance the property value in the subdivision.
- 6.4 Continuation of Streets into Adjacent Property: The arrangements of streets shall generally provide for the continuation and construction of such streets to the property line between adjacent properties. The Commission may waive this requirement if it finds that such extension would require unusually extensive grading, blasting or other site work because of steep topography,

shallow-to-bedrock soils or other natural features; or where it finds that such extension is not necessary to provide an adequate and convenient roadway system for prospective traffic needs. If the adjacent property is undeveloped and the street must temporarily be a dead-end street, the street shall be constructed to the property line. A temporary turnaround shall be provided at the end of any such temporary dead-end street, with a notation on the map to be filed on the land records that the area within the temporary turnaround but outside the normal street right-of-way shall automatically revert to the abutting property owners whenever the street is extended. At the time of extension, the developer proposing the extension shall be fully responsible for the removal and planting in the areas outside the new gutter lines, the replacement or extension of driveways to the new pavement line, and any modifications of paving and drainage made necessary by the extension of the street.

- 6.5 Permanent Dead-end Streets: Where a street does not extend to the boundary of the subdivision and its continuation will not be required for future access to adjoining property, its terminus shall not be nearer to such boundary than one hundred (100) feet or the minimum lot depth prescribed by the Zoning Regulations, whichever is greater. Reserve strips of land shall not be left between the end of a permanent dead-end street and an adjacent piece of property. However, the Commission may require the provision of a twenty (20) foot wide passageway or easement to accommodate pedestrian traffic or utilities. A turnaround shall be provided at the end of a permanent dead-end street. For greater convenience to traffic and more effective police and fire protection, permanent dead-end streets shall not exceed two thousand (2,000) feet in length.
- 6.6 Monuments: All monuments shown on the final plan shall be installed. They shall be of stone or reinforced concrete not less than four (4) inches square and three (3) feet long with a brass or copper plug or drill hole, or cross marking the point in question. All angle points, lot corners, and the beginning and ends of curves shall be monumented. If a large rock is at the surface where a monument is to be installed, a drill hole in the rock is permitted. Existing iron pins shall be replaced with stone or reinforced concrete monuments.
- 6.7 Street Trees: The Commission shall require the planting of street trees in order to maintain the scenic character of the Town. In general, street trees shall be planted approximately 50 feet apart on both sides of any street, subject to variations made necessary by driveways, street corners and walks, in locations approved by the Commission. Trees to be planted shall be at least one and three-quarters (1¾) inches in diameter at a height of four (4) feet and shall have a minimum height of ten (10) feet. The species of trees shall be subject to the approval of the Commission. Where the trees may

interfere with utility poles and wires or intersection sight distances, the Commission may permit the location or required trees within the front ten (10) feet of the proposed lots. Existing trees located along the proposed street and conforming to these regulations may be retained in lieu of planting new trees if the Commission determines that the existing trees are healthy and that they will fit within the overall planting scheme for the street.

- 6.8 Underground Utilities: Electric, telephone and cable television lines and facilities in new streets shall be installed underground unless the Commission has determined that such underground installation is in whole or in part inappropriate or unfeasible because of shallow-to-bedrock soils. Where possible, such lines and facilities shall not be located under the street pavement. The lines and facilities shall be installed after the street right-of-way has been graded but prior to installation of the base course for the street pavement.
- 6.9 Sidewalks, where required by the Commission and Board of Selectmen, shall conform to the requirements of Section 12.4 of the Road and Drainage Regulations.
- 6.10 Street Names: All streets shall be named and such names shall be subject to the approval of the Commission. Names shall be sufficiently different in sound and in spelling from other street names in the Town so as not to cause confusion. A street which is a continuation of an existing street shall, except for good cause shown, bear the same name.

SECTION 7 - DRAINAGE STANDARDS

- 7.1 **Construction Specifications and Requirements:** The construction plans for street drainage required by these Regulations shall be in accordance with the Town of Middlebury Road and Drainage Regulations and approved in writing by the Board of Selectmen. All construction of such improvements shall be carried out subject to supervision and inspection by the Board of Selectmen or their authorized agent and shall be built in accordance with Road and Drainage Regulations. Where there is a conflict between the Road and Drainage Regulations and these Regulations, the more restrictive requirements shall apply.
- 7.2 **General:** The storm drainage system shall provide for drainage from the entire area of the subdivision and shall take into account land outside the subdivision that normally drains across the area of the subdivision, as well as the effects of the subdivision upon downstream drainage systems. The drainage system for the subdivision shall make use of and protect, and improve as needed, the natural drainage system. Construction of artificial ditches should be avoided, and no watercourse shall be diverted, filled or enclosed in pipe except as may be necessary to provide a means of vehicular access across such watercourse. The drainage system shall provide for the following:
- 7.2.1 Adequate drainage of proposed streets, including future extensions thereof into adjoining property;
 - 7.2.2 Interception of existing channeled drainage coming from any adjoining property or street;
 - 7.2.3 Protection of locations necessary for on-site sewage disposal and water supply facilities;
 - 7.2.4 Prevention of flooding and soil erosion, and protection of wetlands and watercourses; and
 - 7.2.5 On-site detention where feasible, in order that runoff from the developed subdivision not exceed the rate of runoff before subdivision (zero incremental increase in runoff).
- 7.3 **Storm Drainage Requirements:** The requirements related to storm drainage shall be as provided in the Town of Middlebury Road and Drainage Regulations.
- 7.4 **Discharge:** The discharge of all stormwater that has been collected shall be

into suitable natural streams or into Town or State drainage systems with adequate capacity to carry the discharge. There shall be no discharge onto or over private property within or adjoining the subdivision unless:

- 7.4.1 Proper easement and discharge rights have been secured by the applicant,
- 7.4.2 Easements and rights are transferable to the Town where the discharge includes stormwater from any street, and
- 7.4.3 There will be adequate safeguards against soil erosion and flood danger.

No stormwater shall be diverted from one watershed to another. Discharge shall be made in a manner that protects wetlands and watercourses from pollution.

SECTION 8 - PERFORMANCE GUARANTEE

8.1 **Performance Guarantee:** The applicant shall provide the performance guarantee specified in Section 2.5.3 of the Road and Drainage Regulations of the Town of Middlebury.

8.1.1 **Submission:** The performance guarantee shall be submitted to the Board of Selectmen within forty-five (45) days after the Commission's approval of a subdivision plan. If a performance guarantee is not so filed with the Board of Selectmen, the subdivision approval shall be deemed automatically void.

8.1.2 **Amounts and Coverage:** The performance guarantee shall be for an amount sufficient to secure to the Town the actual construction and installation of all proposed improvements and utilities. The amount of the performance guarantee shall be set by the Board of Selectmen.

The Board of Selectmen may extend the completion date for public improvements for additional periods. As a condition of such extension, the Board of Selectmen may require an increase in the amount of the performance guarantee if it determines that the existing amount is no longer sufficient to provide adequate security.

8.1.3 **Form:** Performance guarantees shall be duly executed on forms provided or approved by the Board of Selectmen, with proper reference to all maps and plans showing the streets, drainage and other improvements covered by the performance guarantees, and shall have attached thereto a copy of a detailed cost estimate. Forms and other data shall be provided as follows:

Bonds secured by a passbook savings account shall be accompanied by:

- A. The savings account passbook;
- B. A withdrawal slip in the amount of the Bond, properly endorsed and made payable to the Town; and
- C. A letter from the Bank acknowledging that the account has been assigned to the Town for the period established for the construction or installation of the required improvements, plus six months.

Bonds secured by irrevocable letters of credit shall be provided by a bank or other similar reputable institution subject to the approval of the Board of Selectmen and its attorney. The letter of credit shall be in such form and accompanied by such documents as may be prescribed by the Board of Selectmen.

All proposed bonds need to be presented to the Planning and Zoning Commission Office for review by Town Engineer and Town Counsel.

- 8.2 Inspection of Improvements: The Board of Selectmen and inspector designated by the Board of Selectmen shall be notified by the applicant at least three (3) business days in advance of all relevant construction and may inspect required improvements during construction to assure satisfactory completion. In the case of new streets or changes in existing streets, the work shall be inspected in accordance with the Town ordinance and regulations governing construction. If the Board of Selectmen or the person designated by the Board of Selectmen finds, upon inspection, that any of the required improvements have not been constructed and maintained in accordance with the approved plans, (s)he shall notify the applicant and the Board of Selectmen in writing and the applicant shall be responsible for completing or repairing the improvements according to specifications.
- 8.3 Improvements Required by Unforeseen Conditions: If during the course of construction of any new street, or any other improvements required by the Commission as part of an approved subdivision, additional work is required to complete all improvements or in order to remedy unforeseen conditions, the Board of Selectmen shall require such additional work to be done by the applicant at no cost to the Town. Such unforeseen conditions may, but shall not be limited to, springs, existing drains, swampy conditions, side-hill drainage from cuts, and bedrock.
- 8.4 Modification of Design of Improvements: If at any time before or during the construction of required improvements, it is demonstrated to the satisfaction of the Board of Selectmen that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, such modifications may be authorized upon recommendations of the Board of Selectmen and the approval of the Chairman of the Commission, provided the modifications are within the spirit and intent of the Commission's approval and do not constitute a waiver of substantial alteration of the improvements required by the Commission. Any such authorization under this Section shall be issued in writing and shall be transmitted to the Board of Selectmen and the Commission at their next regular meeting by the Board of Selectman's secretary.

- 8.5 Failure to Complete Improvements: Where a performance guarantee has been posted and required improvements have not been installed within the terms of such guarantee, the Town may declare the performance guarantee to be in default and require that all the improvements be installed regardless of the extent of the building development.
- 8.6 Reduction of Performance Guarantee: When and if the Board of Selectmen determines that a substantial portion of the improvements required in the subdivision plan approved by the Commission have been completed, the Board of Selectmen may reduce a portion of the performance guarantee as provided by Section 2.7 of the Road and Drainage Regulations.
- 8.7 Final Release of Performance Guarantee: Such release shall be in accordance with Section 2.8 of the Road and Drainage Regulations.
- 8.8 Acceptance of Streets: The applicant shall submit a written request to the Board of Selectmen for acceptance of a street, in accordance with Section 2.10 of the Road and Drainage Regulations. At the time of requested acceptance of roads, an updated Certificate of Title will be required.

SECTION 9 - GENERAL ADMINISTRATION AND PENALTIES

- 9.1 **Administrative Agent:** The Zoning Enforcement Officer shall be the administrative agent of the Commission to receive notifications and applications, to collect fees and advise the Commission regarding compliance with these Regulations and to carry out such other duties as may be required by these Regulations or by the Commission.
- 9.2 **Self-imposed Restriction:** If the land contained in the subdivision has, or is to have, deed restrictions more stringent than those required by the Zoning Regulations, that fact shall be indicated in the applications provided for in these Regulations.
- 9.3 **Validity:** If any section, paragraph, sentence, clause or phrase of these Regulations shall for any reason be held to be invalid or unconstitutional by a decree or decision of any court of competent jurisdiction, such decree or decision shall not affect impair the validity of any other section or remaining portion of these Regulations.
- 9.4 **Amendment:** These Regulations may be amended from time to time by the Commission pending compliance with procedural requirements under Section 8-25 of the Connecticut General Statutes.
- 9.5 **Effective Date and Repeal:** These Regulations, and any amendment or change hereto, shall be in full force and effect from the date established by the Commission in accordance with the General Statutes of the State of Connecticut.
- 9.6 **Penalties:** In the case of any violation, or violations, of these Regulations, penalties will be sought under the provisions of the General Statutes of the State of Connecticut.
- 9.7 **Appeals:** Any person aggrieved by an official action of the Commission may appeal such official action to the Superior Court in accordance with Section 8-8 of the Connecticut General Statutes.

REFERENCE

DOCUMENTS PROVIDING INFORMATION AND STANDARDS FOR COMPLETION OF SUBDIVISION APPLICATIONS

Town of Middlebury

- Driveway Ordinance
- Excavation and Grading Regulations
- Inland Wetlands and Watercourses Regulations
- Plan of Conservation and Development
- Road and Drainage Regulations
- Rock Excavation Regulations
- Scenic Road Ordinance
- Zoning Regulations

State of Connecticut

- Minimum Standards for Survey and Maps, Dept. of Consumer Protection
- Connecticut Public Health Code
- Connecticut General Statutes

United States

- Site Planning for Solar Access, U.S. Dept. Of Housing and Urban Development

