

GENERAL

SECTION 3: GENERAL

3.0 BASIC REQUIREMENT

No person shall make a subdivision within the meaning of the Subdivision Control Law of any land within the Town, or proceed with the improvements or sale of lots in a subdivision, or the construction of ways, or the installation of municipal services therein, unless and until a plan has been endorsed "Planning Board Approval Not Required" or a Definitive Plan of such subdivision has been submitted to and approved by the Board (M.G.L. Ch. 41, S. 81-O).

3.1 LIMITATION OF ONE RESIDENTIAL STRUCTURE ON ANY LOT

Not more than one structure designed or available for use for dwelling purposes shall be erected or placed or converted to use as such on any lot in a subdivision, without the consent of the Board, and such consent may be made conditional upon the providing of adequate ways furnishing access to each site for such structure, in the same manner as otherwise required for lots within a subdivision. (M.G.L. Ch. 41, S. 81-Q).

3.2 EFFECT OF PRIOR RECORDING

The recording of a plan of subdivision within the Town in Worcester Registry of Deeds prior to the effective date of the Subdivision Control Law in the Town of Millbury shall not exempt the land within such subdivision from the application and operation of these Rules and Regulations except as specifically exempt by Chapter 41, Section 81FF, of the Massachusetts General Laws and the Millbury Zoning Bylaws.

3.3 REFERENCE

For matters not covered by these Rules and Regulations, reference is made to Sections 81-K to 81GG, inclusive, of Chapter 41 of the Massachusetts General Laws.

3.4 COMPLIANCE WITH ZONING

No subdivision plan shall be approved by the Board unless the size, shape, width, and frontage of all lots within the subdivision comply with the applicable provisions of the Zoning Bylaws of the Town of Millbury. Non-conforming lots may be included on a plan only if the Board records on the mylar that said lots are unbuildable.

3.5 SEVERABILITY

If any part or portions of these Rules and Regulations be adjudicated as invalid, the adjudication shall apply only to the material so adjudged, and the remaining Rules and Regulations shall be deemed valid and of full force and effect. (M.G.L. Ch. 41, S. 81-GG).

3.6 WAIVERS

The Board may waive strict compliance with any of these Rules and Regulations if it deems it in the public interest in accordance with M.G.L. Ch. 41, S. 81-R.

3.7 SUBMISSION OF PLANS

Plans intended for review at a regular meeting of the Board shall be forwarded to the Department of Planning and Development by delivery or by certified mail at least five (5) full working days prior to the Board meeting.

No plan for review, whether for approval or for endorsement of approval not required (See Section 4 and Section 5), shall be accepted as a submittal unless and until all information necessary for such review, as described in these Regulations under the applicable provisions of the requirements set forth in Sections 3.8, 3.10, 3.11, 4.0, 4.1, 5.1, and 5.3, are fully provided unless waivers are requested in writing. At the time of submission, the Board or its Agent, shall make a determination, using a checklist (See Appendix A), that the submission requirements are either complete or incomplete.

If the submission has been determined to be incomplete, the plan shall be returned to the Applicant either in person or by certified mail with a letter indicating that insufficient information has been provided making it impossible for the Board to adequately review the plan, approve the plan, or endorse the plan "Approval Not Required." Incomplete plans shall not be considered submittals and shall not be considered the start of any time limits within which the Board is required to act under various provisions of Subdivision Control.

If the submission has been determined to be complete, the Applicant shall file written notice (Form A, B or C) with the Town Clerk by delivery or by certified mail, postage prepaid. The Town Clerk shall time and date stamp said notice to fix the date of submission.

3.8 SUBMISSION REQUIREMENTS FOR DIGITAL ANR, SUBDIVISION & AS-BUILT PLANS

For ANR, subdivision and as-built plans, the Applicant shall submit a CD-ROM or DVD containing geographic data in accordance with the Standard for Digital Plan Submittals to Municipalities (Version 1.0) issued by the Office of Geographic and Environmental Information (MassGIS) in 2006, or the most recent edition of this publication. This publication, or any succeeding edition of this publication, is hereby incorporated as part of these Regulations. The publication may be accessed via the MassGIS website: (<http://www.mass.gov/mgis/standards.htm>). (rev. 1/22/07)

3.9 SUBMISSION DEADLINES

SUBMISSION	DECISION	APPEAL

ANR	within 21 days	within 60 days
PRELIMINARY PLAN	within 45 days	not applicable
DEFINITIVE PLAN (Prel. Plan Submitted)	within 90 days	within 20 days
DEFINITIVE PLAN (No Prel. Plan)	within 135 days	within 20 days

3.10 SUBMISSION FEES

The fees indicated in Appendix A- Fee Schedule- shall accompany the submittal of application materials of the various plans specified in the Rules and Regulations, to cover costs of processing the application and professional staff assistance and review. The Fee Schedule is attached to these Rules and Regulations for your information, but it is not part of these Rules and Regulations.

3.11 PROFESSIONAL AND TECHNICAL REVIEW FEES

The Board may hire professional and technical consultants to assist the Board in analyzing a project to ensure compliance with all relevant laws, bylaws and regulations. Such assistance may include, but not be limited to, analyzing an application, monitoring or inspecting a project or site for compliance with the Board's decision or regulation, or inspecting a project during construction or implementation. The expenses for engaging professional and technical assistance and review in connection with a Subdivision shall be borne by the Applicant.

The appropriate professional and technical review fee (See Appendix A – Fee Schedule) shall be paid to the Town of Millbury for deposit into a special account established by the Town Treasurer under M.G.L. Chapter 44, Section 53G. The fee shall be paid at the time of submission of a preliminary plan and/or definitive plan. The balance of this account shall at no time be less than one-half (1/2) the initial deposit, and the Applicant shall deposit with the Treasurer such additional funds as are required to restore the account to the amount of the initial deposit upon notice from the Board, by first class mail, that the amount on deposit has been decreased by the expenditures described herein to an amount at or below one-half (1/2) of the initial deposit. If the Applicant fails to restore the account balance and the balance is insufficient to pay incurred professional and technical review fees, the Board shall send the invoice directly to the Applicant. The Board shall place a stop work order on subdivision construction activities by not authorizing additional professional or technical work, including inspections, until outstanding invoices are paid. Ninety (90) days following the Board's issuance of a Certificate of Completion (See Appendix A), any excess amount in the account attributable to that project, including any interest accrued, shall be repaid to the Applicant or the Applicant's successor in interest.

Any Applicant may take an administrative appeal from the selection of the outside consultant to the Board of Selectmen. Such appeal must be made in writing and may be taken only within twenty (20) days after the Planning Board has mailed or hand-delivered notice to the Applicant of the selection. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum, required qualifications. The minimum qualifications shall consist either of an educational degree in, or related to, the field at issue or three (3) or more years of practice in the field at issue or a related field. The required time limit for action upon an application by

the Board shall be extended by the duration of the administrative appeal. In the event that no decision is made by the Board of Selectmen within one month following the filing of the appeal, the selection made by the Board shall stand.

3.12 FEE DELINQUENCIES

In accordance with Chapter 17 of the General Bylaws of the Town of Millbury, the Board may refuse to approve any application or revoke approval of any application if the person, entity or principals of an entity acting as Applicant or developer is on the list provided by the Town's collector of persons who have neglected or refused to pay local taxes, betterments, fees and/or other charges owed to the Town for not less than a twelve month period and who have not filed in good faith a pending application for abatement or a pending petition before the appellate tax board.

3.13 ISSUANCE OF BUILDING PERMITS

The Building Inspector shall not issue any permit for the erection of a building until first satisfied that the lot on which the building is to be erected is not within a Subdivision, or that a way furnishing the access to a lot within a subdivision as required by Subdivision Control is shown on a recorded plan and that any conditions endorsed thereon limiting the right to erect or maintain buildings on such lot have been satisfied, the way providing access to a lot has been constructed to the base course and fire suppression facilities have been installed and meet the requirements of the Fire Chief.