

SUBDIVISION REGULATIONS OF THE CITY OF BERLIN, NEW HAMPSHIRE

Section 1. General Provisions

1.1 These regulations shall be known, cited, and referred to as the Subdivision Regulations of the City of Berlin.

1.2 Purpose. These regulations are adopted to protect and provide for the public health, safety, and general welfare of the municipality. Control of land use through these regulations will guide public and private policy and action to ensure the economical and efficient construction and use of public facilities and the land.

1.3 Authority.

- 1) Pursuant to the authority granted to the Berlin City Planning Board by the Berlin City Council on August 5, 1963, and in accordance with the provisions of the New Hampshire Revised Statutes Annotated 674:35, as amended, the Berlin City Planning Board does hereby exercise the power and authority to regulate the subdivision of land.
- 2) By the same authority, the City Planning Board does hereby exercise the power and authority to regulate the development of subdivisions of land already recorded in the Registry of Deeds, if:
 - a) Said subdivision has been recorded at the Registry of Deeds after the earliest date of adoption of subdivision regulations, September 11, 1963, without a prior approval by the Planning Board, or
 - b) Said subdivision has been approved by the Planning Board more than four (4) years prior to granting a building permit.

1.4 Jurisdiction and Penalties

- 1) These subdivision regulations shall apply to all subdivisions of land, as defined herein, located within the corporate limits of the city.
- 2) No land shall be subdivided within the corporate limits of the city until:
 - a) The applicant has submitted a complete subdivision application and such application has been approved by a majority of the Planning Board, and
 - b) The approved plat is filed with the Coos County Registry of Deeds.
- 3) No building permit or certificate of occupancy shall be issued for any parcel or plot of land which was created by subdivision after the effective date of, and not in conformity with the provisions of these regulations, and no excavation of land or construction of any public or private improvements shall take place or be commenced except in conformity with these regulations.
- 4) Whoever, being the owner or agent of the owner of any land located within a subdivision, transfers or sells any land within a subdivision before it has been approved by the Planning Board and recorded with the Registry of Deeds, shall pay a penalty of five hundred dollars (\$500.00) for each lot or parcel so transferred or sold. The City Attorney shall enjoin such transfer or sale and shall

recover the said penalty.

1.5 Resubdivision of Land

- 1) **Changes in Subdivision Layout.** If any change in the layout of an approved subdivision plat affects any street layout, any area reserved for public use, any lot line, or any previously approved subdivision plat, then the parcels whose layouts have been changed shall be submitted for reconsideration by the board by the same procedures, rules, and regulations as for a subdivision.
- 2) **When Future Resubdivision is Indicated.** Whenever a subdivision plat shows one or more lots containing more than one acre of land and there are indications that such lots will be resubdivided into small building sites, the board may require that such parcel allow for the future opening of streets and extension of utilities. Easements providing for the future development of streets and utilities may be made a requirement of the plan.

1.6 Vacation of Plats

- 1) Any plat or any part of any plat may be vacated by the owner of the premises at any time before the sale of any lot therein by a written contract declaring the plat to be vacated, which is attached to the plat. Such contract shall be approved by the board in the same manner as plats of subdivisions. Such contract shall be recorded at the Registry of Deeds, and being recorded, shall destroy the force and effect of the recording of the plat, and shall divest all public rights in the streets, public grounds, and all dedications laid out or described on such plat.
- 2) When lots have been sold, the plat may be vacated in the manner described above, provided that all owners of lots in such plat join in the execution of the contract.

1.7 Waivers. Where the Planning Board finds that extraordinary hardships or practical difficulties may result from strict compliance with these regulations and/or the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve waivers to specific requirements of these subdivision regulations so that substantial justice may be done and the public interest served, provided that such waiver shall not have the effect of nullifying the intent and purpose of the subdivision regulations; and further provided the Planning Board shall not approve waivers unless it shall make findings based upon the evidence presented to it in each specific case that:

- a) The granting of the waivers will not be detrimental to the public safety, health, or welfare or injurious to other property.
- b) The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought and are not applicable generally to other property.
- c) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience.
- d) The waivers will not in any manner vary the provisions of the Zoning

Ordinance.

Section 2. Subdivision Application and Approval Procedures

2.1 Minor and Major Subdivisions and Lot Line Adjustments

- 1) **Minor Subdivisions.** If the proposed subdivision:
 - a) Would create not more than three (3) lots;
 - b) Would create only lots fronting on existing streets (This requirement does not apply to lots which are outside the developed area of the city and will not be developed.);
 - c) Would require no new streets;
 - d) Would require no extension of municipal facilities;
 - e) Would create no public improvements;
 - f) Would have no adverse impact on the remainder of the parcel or any adjoining land; and
 - g) Would not conflict with any portion of the Master Plan, Zoning Ordinance, or these regulations;

then the applicant may follow the application procedure for a minor subdivision.

- 2) **Major Subdivision.** Any subdivision proposal which does not meet all of the requirements for a minor subdivision, as specified above, shall be considered a major subdivision and the applicant shall follow the application procedure for a major subdivision.
- 3) **Lot Line Adjustments.** Proposed subdivisions which do not create buildable lots (as defined by the zoning ordinance) and involve the exchange of abutting land among two or more owners which does not increase the number of owners or the number of lots shall follow the application procedure for a minor subdivision with the exception that a public hearing may not be required.
- 4) The determination of whether a proposed subdivision is a minor or major subdivision or a lot line adjustment shall be made by the Planning Board staff in the Planning Department, based on initial discussions with the applicant. The determination shall be made prior to the submittal of any plans, and shall specify the staff's reasoning. If the applicant does not agree with the staff's determination, they may appeal the decision to the board at its next meeting. The determination may be revised by the Board at any time prior to acceptance of the final plat.

2.2 Application Procedure for Minor and Major Subdivisions

- 1) **Conceptual Consultation.** Prior to submission of an application, the applicant

may appear at a formal meeting of the Board to discuss the proposed subdivision. The applicant shall notify the board of their intent to appear 15 days prior to the next scheduled meeting so that their proposal may appear on the agenda. The Board and the applicant may discuss, at this and subsequent meetings, the developer's proposals and any requirements for approval of the plan. The limits of such discussions shall be the evaluation of the proposals in relation to: existing zoning ordinances; expected impact on public services; best use of the land to be subdivided; and environmental conditions in the area, including topography. No notice to the abutters or the public is required for conceptual consultation.

- 2) **Design Review.** Prior to submission of an application, the applicant may file, with the Planning Department, a preliminary plat of the subdivision for the purpose of reviewing the design of the proposed subdivision. The preliminary plat shall meet as many of the requirements specified for the final plat as possible, and shall be filed fifteen (15) days prior to the next scheduled board meeting. Notice of the time and location of the meeting where the preliminary plat will be accepted shall be given, as specified in Section 2.5. Any discussions with the Board at this stage shall be nonbinding.
- 3) **Application.** The applicant shall file an application with the Planning Department. The final application shall consist of:
 - a) a completed application form,
 - b) a list of abutter names and addresses obtained from City records not more than five days prior to filing the application,
 - c) required fees as specified in Sections 2.3 of these Regulations,
 - d) two (2) mylar copies and two (2) paper copies of the final plat of the proposed subdivision. The plat must conform to the specifications in Section 2.4 of these regulations.

The Planning Department shall determine, in sufficient time to allow for public notice as specified below, whether the application is complete. If it is determined that the application does not conform to the specifications for a complete application, the applicant shall be notified by the Planning Department that the Planning Board cannot accept the final plat. If the filed application is determined to be in conformance with the specifications, then notice shall be made as provided below and the Board shall begin formal consideration of the application within 30 days after receipt of the completed application by the Planning Department.

2.3 Application Fees

- 1) A filing fee shall be paid upon filing of a Subdivision Application to defray the costs of processing the application. This fee shall be **\$15.00 for minor lot line adjustments, \$25.00 for minor subdivisions, and \$50.00 for major subdivisions.**
- 2) Notice fees shall be paid at the rate of **\$4.00 per notice** to each abutter, the applicant, each holder of conservation, preservation or agricultural preservation restrictions and every engineer, architect, land surveyor, soil scientist, or other

licensed professional whose seal appears on the plans. A fee of **\$35.00** shall also be paid for the costs and administrative expenses of public notices in a newspaper and in three places.

- 3) In accordance with RSA 676:4.I (g), additional reasonable fees shall be charged should the Board require special investigative studies or the advice of an expert to review plans and to cover legal expenses.
- 4) Recording fees shall be determined after approval of the application and shall be based on Registry of Deeds costs and postage

Filing fees and notice fees shall be paid upon filing of an Application. Failure to pay these fees shall constitute grounds for the Board to not accept the application.

Failure to pay fees assessed prior to or during the Planning Board's review of the plan shall constitute valid grounds for the Planning Board to terminate further consideration on the application and to disapprove the application without a public hearing. Failure to pay fees assessed as specified in section 3 above and imposed after review of the plan shall be grounds to withhold Planning Board signature on the plan and shall be grounds to deny the applicant, its successor or assign a building permit.

2.4 Final Plat Specifications

- 1) In the case of a minor subdivision or lot line adjustment, the final plat shall be considered complete if all of the following specifications are included in the plat:
 - a) The plan shall be legibly drawn in black ink at a scale of no more than 50 feet to the inch. Size of sheets shall not measure more than 22 inches by 34 inches. The determination of other than the specified scale for minor subdivisions shall be made by the Planning Board staff in the Planning Department based on initial discussions with the applicant. If the applicant does not agree with staff determination, an appeal to the Board at its next regular meeting may be made.
 - b) The name of the subdivision, location, and boundaries of the land to be subdivided, scale, and north arrow. The name and address of the record owner, applicant, and designer shall be included in the title block in the lower right hand corner of each sheet.
 - c) Names of owners of abutting properties as recorded in city records five (5) days prior to the date of filing, abutting subdivision names, streets, easements, building lines, alleys, parks and public open spaces and similar facts regarding abutting property.
 - d) All dimensions shall be shown to the nearest tenth (1/10) of a foot.
 - e) Lot numbers in accordance with the prevailing policy on existing tax maps.
 - f) The elevation of sufficient points on the property to indicate the general topography of the property.

- g)** The seal, name and address of every engineer, architect, land surveyor, soil scientist, or other licensed professional who contributed to the plat.
- 2)** In the case of a major subdivision, the final plat shall be considered complete if all of the specifications for a complete minor subdivision application are included, in addition to the following:

 - a)** Topographic contours of the parcel being subdivided and the surrounding area drawn in no greater than 2 foot intervals.
 - b)** Location of existing property lines and proposed lot lines and their dimensions, existing easements, buildings, water courses, ponds or standing water, rock ledges, and other essential features.
 - c)** The final plat shall show the boundaries of proposed permanent easements over or under private property. Such easements shall be not less than 20 feet in width and shall have satisfactory access to existing or proposed public ways.
 - d)** Location of all parcels of land to be dedicated to public use and the conditions of such dedication and a copy of such private deed restrictions as are intended to cover part or all of the tract.
 - e)** All existing and proposed utilities (e.g. sewer, water, drainage) and existing and proposed roads and bridges shall be drawn in plan and profile on plan and profile drafting film. The scale of all drawings shall be 1 inch equals 40 feet horizontal and 1 inch equals 4 feet vertical. All profiles shall show boring depths and groundwater elevations.
 - f)** The horizontal distance and slope between all manholes or catch basins, diameters, types, and class shall be shown for all proposed utilities.
 - g)** Cross-section drawings of all proposed roads shall be shown at 50 foot stations. A typical road cross-section shall be included.
 - h)** Technical specifications for all road and utility construction and materials shall accompany the plat. All specifications shall meet or exceed the requirements of the New Hampshire Department of Public Works and Highways, the New Hampshire Water Supply and Pollution Control Commission, and the *Manual on Uniform Traffic Control Devices*. All specifications shall follow the format described in the *C.S.I. Manual of Practice*.
 - i)** Designation of the location, size, planting and landscaping of such parks, esplanades and open spaces as are required by the board.
 - j)** Where the final plat submitted covers only a part of the applicant's entire holding, a sketch of the prospective future street system of the unsubmitted part shall be furnished and the street system of the submitted part will be considered in the light of adjustments and connections with

the street system of the part not submitted.

- k) The final plat shall be accompanied by certification by a duly authorized engineer that the design of sewer and water facilities and streets and utilities in the proposed subdivision conforms to the requirements of this ordinance and all other municipal ordinances. The cost of all engineering, supervision, and final inspection of the roads and utilities in the subdivision by the City Engineer or designated agent shall be borne by the applicant.

- 4) **Special Flood Hazard Areas.** The Planning Board shall review the proposed development to assure that all necessary permits have been received from those governmental agencies from which approval is required by Federal or State Law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334.

In special flood hazard areas, all subdivision proposals and other proposed new developments with land designated as special flood hazard areas within its boundaries, and greater than 50 lots or 5 acres, whichever is the lesser, shall include within such proposals base flood elevation data.

For development in special flood hazard areas, sufficient evidence (construction drawings, grading and land treatment plans) shall be submitted so as to allow determination that:

- a) All such proposals are consistent with the need to minimize flood damage;
- b) All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- c) Adequate drainage is provided so as to reduce exposure to flood hazards.

- 5) **Financial Security.** The Planning Board, in accordance with RSA 674:36 III (b) may require of subdivision applications a form of financial security. This security, in an amount to be determined by the Planning Board, may be in the form of cash or a non-lapsing irrevocable letter of credit or other form acceptable to the Board and the City Attorney. It will be posted by the developer/applicant and held by the City until the Planning Board or its designee is satisfied that all conditions of the subdivision approval and any other City Ordinances have been met. The security may be released in part when the project is substantially completed, at the discretion of the Planning Board or its designee. It shall be the sole responsibility of the applicant, or its assign, or its successor in interest, to ensure that acceptable and adequate security once posted, is maintained continuously and without lapse. Lapse of adequate security shall be grounds to deny issuance of a certificate of occupancy and shall be grounds to revoke the Site Plan per RSA 676:4-a.

- 2.5 **Notice Requirements.** At least ten (10) days prior to a meeting for design review or a meeting at which a preliminary or final application is submitted to the Board (or any meeting where the application is discussed, except the conceptual consultation), the Board shall send notice of the meeting by certified mail to all abutters, the applicant, holders of conservation, preservation or agriculture restrictions and every engineer,

architect, land surveyor, soil scientist or other licensed professional whose seal appears on the plat. Notice to the public shall also be given at the same time by publication in a local newspaper. All notices shall include the date and location of the meeting, the names of the applicant and/or property owner, the location of the property, and a description of the proposal. The cost of all notices shall be paid by the applicant in advance.

2.6 Planning Board Procedure for Consideration of Subdivision Applications

- 1) In accordance with RSA 676:4, I (c), the Planning Board shall begin formal consideration of a subdivision application within thirty (30) days after receipt of the completed application by the Board or the Planning Department. Once the Planning Department staff has made an initial determination that an application is complete, it shall be submitted to the City Planning Board for acceptance. Notice of this submission shall be given as outlined above. The Planning Board shall vote to accept the submitted application if it determines that the application is complete.

Upon determination by the Board or Planning Department staff that a filed application is incomplete, the board or staff shall notify the applicant of this determination in accordance with the requirements of RSA 676:3.

The Board shall act to approve, conditionally approve, or disapprove the application within 90 days of the receipt of the completed application by the Planning Department. Waivers or extensions to this time frame may be granted pursuant to RSA 676:4, I (c) as amended.

- 2) Should the board approve the application, this fact shall be attested on the original plats and all copies by the signature of a majority of the members of the board or by the Planning Board Chairperson if so designated by the Planning Board.
- 3) The Planning Board may issue a conditional approval of a subdivision application at its discretion. In any case of conditional approval, the Board shall inform the applicant in writing of the conditions and any time schedule involved.
- 4) One original signed set of the approved Final Plats shall be retained by the Board, one (1) paper copy shall be delivered to the applicant, and one original set shall be registered at the Coos County Registry of Deeds at the applicant's expense.

2.7 Public Hearing

- 1) Prior to approval or disapproval of a complete subdivision application, the Planning Board shall hold a public hearing on the application. Notice of this public hearing shall be published ten (10) days prior to its occurrence and shall state the date, time, and location of the hearing, the name of the applicant and/or property owner, the location of the subdivision and the general nature of the proposed subdivision. All costs of notice shall be paid by the applicant in advance. If a substantial change is made in any aspect of the proposed subdivision plat following the public hearing, then another public hearing shall be held to discuss the revised plat.

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- 2) The Planning Board is not required to hold a public hearing for lot line adjustments unless one is requested by an abutter or other interested party.
- 3) The Planning Board may act to disapprove a final plat without a public hearing, if:
 - a) Costs of all notices and/or other fees required by the Board are not paid by the applicant;
 - b) Bond is not posted if required by the Board;
 - c) Field inspection of the proposed subdivision is denied by the applicant or landowner;
 - d) Deadlines imposed by the Board are not met.

Section 3. Requirements for Improvements, Reservations, and Designs

3.1 General Improvement

- 1) Conformance to applicable rules and regulations, including:
 - a) All applicable statutory provisions;
 - b) Local zoning ordinances, building, and housing codes, and all other applicable laws;
 - c) The existing capital improvements program and City Master Plan;
 - d) Regulations of the Health Department and all state agencies;
 - e) The standards adopted by the City Engineer for public facilities.
- 2) **Self-imposed Restrictions.** If the owner places restrictions on any of the land contained in the subdivision greater than those required by the zoning ordinance or these regulations, such restrictions shall be indicated on the final plat.
- 3) **Plats Straddling Municipal Boundaries.** Whenever access to the subdivision is required across land in another municipality, the Planning Board may request assurance that such access will be adequate. Lot lines shall be laid out so as not to cross municipal boundary lines.
- 4) **Character of the Land.** Land which the Planning Board finds to be unsuitable for subdivision or development due to improper drainage, steep slopes, rock formations, adverse land forms or topography, utility easements, or other fractures which will be harmful to the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the Planning Board.
- 5) **Railroad Rights-of-Way.** In residential districts, a buffer strip at least 25 feet in depth in addition to the normal depth of the lot required in the district shall be

provided adjacent to the railroad right-of-way, for the purpose of screening.

- 6) **Reservations.** Whenever the board finds need for the reservation of one or more rights-of-way or one or more reserve strips, such reservations shall be made before approval of a subdivision plat.

3.2 Lot Improvements

- 1) **Lot Arrangement.** The lot arrangement shall be such that there will be no foreseeable difficulties in securing building permits to build on all lots and in providing driveway access to buildings on such lots from an approved street.
- 2) **Lot Dimensions.** Lot dimensions shall comply with the minimum standards of the Zoning Ordinance. Where lots are more than double the minimum required area for the zoning district, the Planning Board may require that such lots be arranged so as to allow further subdivision and the opening of future streets where they would be necessary to serve such potential lots. In general, side lot lines shall be at right angles to street lines (or radial to curving street lines) unless a variation from this rule will give a better street or lot plan. Dimensions of corner lots shall be large enough to allow for erection of buildings observing the minimum front-yard setback from both streets. Depth and width of properties reserved or laid out for business, commercial, or industrial purposes shall be adequate to provide for the off-street parking and loading facilities required for the type of use and development contemplated.
- 3) **Double Frontage Lots and Access to Lots.**
 - a) Double frontage and reversed frontage lots shall be avoided except where necessary to provide separation of residential development from traffic or to overcome environmental disadvantages.
 - b) Lots shall not derive access exclusively from a major or secondary street. Where possible, driveways should be designed and arranged so as to avoid requiring vehicles to back into traffic on major or secondary arterials.
- 4) A block shall be not less than six hundred feet (600') nor more than nine hundred feet (900') in length and no block shall be less than two hundred and thirty (230') nor more than five hundred feet (500') in width except that this restriction shall not apply to any single block in a Farming and Residence Zone provided that each lot in such a block measures not less than one (1) acre in area.
- 5) If a tract being subdivided contains a water body, or portion thereof, lot lines shall be drawn so as to distribute the entire ownership of the water body among the fees of adjacent lots. No more than 25% of the minimum lot area required under the zoning ordinance may be satisfied by land which is under water.

Where a watercourse separates the buildable area of a lot from the street by which it has access, provisions shall be made for installation of a culvert or other structures, of design approved by the City Engineer.

3.3 Roads

- 1) Wherever the area to be subdivided is to utilize existing roads, such roads shall be suitably improved as provided herein.
- 2) Where a subdivision borders an existing narrow road and regulations require realignment or widening of the road which would require use of some of the land in the subdivision, the applicant shall improve and dedicate at their expense such area as needed. Land reserved for any road purposes may not be counted in satisfying yard or area requirements of the Zoning Ordinance, whether land is dedicated or easement is granted.
- 3) New streets shall be so laid out as to accommodate the continuation of the principal streets in adjoining subdivisions or for their proper protection when adjoining property is not subdivided.
- 4) All streets in any future subdivision shall meet minimum standards specified by the City of Berlin's "Minimum Standards for Subdivision Streets," including:
 - a) Dead-end streets shall not exceed one thousand feet (1000') in length and shall be equipped at the closed end with a cul-de-sac of which the minimum diameter for the outside curb shall not be less than one hundred and twenty feet (120').
 - b) To assure proper drainage, street grades shall be not less than 0.5%. Maximum grades shall conform to the requirements in the "Minimum Standards for Subdivision Streets."
 - c) Street intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicle traffic. Curves in general shall have a minimum radius of two hundred fifty feet (250') and no interchange shall be acceptable at less than sixty degrees. Property lines on corners shall reserve a twenty-foot (20') curb radius.
 - d) All road materials shall conform to the requirements in the "Minimum Standards for Subdivision Streets."
- 5) No street shall be recommended for acceptance until it has been properly graded and paved by the applicant and approved by the City Engineer in accordance with these regulations.

3.4 Drainage

- 1) **General Requirements.** The Planning Board shall not approve any subdivision plat which does not make adequate provision for storm or flood water runoff channels or basins. The storm water drainage system shall be separate and independent of any sanitary sewer system. A copy of the design computations for all storm sewers shall be submitted along with plans. Inlets shall be provided so that surface water is not carried across or around any intersections, nor for a distance of more than six hundred feet (600') in the gutter. When calculations indicated that curb capacities are exceeded at a point, no further allowance shall be made for flow beyond that point, and catch basins shall be used to intercept

flow at that point. Surface water drainage patterns shall be shown for each and every lot and block. In less developed areas of the City, drainage swales may constitute an adequate drainage system. This alternative shall be subject to the approval of the City Engineer.

2) Nature of Storm Water Facilities.

- a) **Location.** The applicant may be required by the Planning Board to carry away by pipe or open ditch any spring or surface water that may exist either previously to, or as a result of the subdivision. Such drainage facilities shall be located in the road right-of-way where feasible, or in perpetual unobstructed easements of appropriate width, and shall be constructed in accordance with the specifications of the City of Berlin's "Minimum Standards for Subdivision Streets" and any other specifications determined to be necessary by the City Engineer.
- b) **Accessibility to Public Storm Sewers.**
 - i) Where a public storm sewer is accessible, the applicant shall install storm sewer facilities, or if no outlets are within a reasonable distance, adequate provisions shall be made for the disposal of storm waters, subject to the specifications of the City Engineer.
 - ii) If a connection to a public storm sewer will be provided eventually, as determined by the City Engineer and the Planning Board, the developer shall make arrangements for future storm water disposal by a public utility system at the time the plat receives final approval. Provision for such connection shall be incorporated by inclusion in the performance bond required for the subdivision plat.
- c) **Accommodation of Upstream Drainage Areas.** A culvert or other drainage facility shall in each case be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision. The City Engineer shall determine the necessary size of the facility, based on the provisions of the construction standards and specifications assuming conditions of maximum potential watershed development permitted by the Zoning Ordinance.
- d) **Effect on Downstream Drainage Areas.** The City Engineer shall also study the effect of each subdivision on existing downstream drainage facilities outside the area of the subdivision. City drainage studies, together with such other studies as shall be appropriate, shall serve as a guide to needed improvements. Where it is anticipated that the additional runoff incident to the development of the subdivision will overload an existing downstream drainage facility, the Planning Board may withhold approval of the subdivision until provision has been made for the improvement of said potential condition in such sum as the Planning Board shall determine. No subdivision shall be approved unless adequate drainage will be provided to an adequate drainage watercourse or facility.

- 3) **Flood Plain Areas.** The Planning Board, may when it deems it necessary for the health, safety, or welfare of the present and future population of the area and necessary to the conservation of water, and protection of drainage, sanitary, and other public facilities, prohibit the subdivision of the any portion of the property which lies within the flood plain of any stream or drainage course. These flood plain areas shall be preserved from any and all destruction or damage resulting from clearing, grading, or dumping of earth, waste material, or stumps except at the discretion of the Planning Board. Flood Plain areas shall be defined as those areas designated as "Special Flood Hazard Areas" in the *Flood Insurance Study for the City of Berlin, New Hampshire*, together with the associated *Flood Insurance Rate Maps and Flood Boundary and Floodway Maps* of the City of Berlin, dated June 15, 1982 as amended. The Planning Board may designate additional flood plain areas based on its own judgments.
- 4) **Drainage Easements.** Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially to the lines of such watercourse, and of such width and construction or both as will be adequate for the purpose. Wherever possible, it is desirable that the drainage be maintained by an open channel with landscaped banks and adequate width for maximum potential volume of flow.

3.5 Water Facilities

- 1) **Maximum Required Connection Distance.** An extension of the public water system will be required where the closest lot line of the closest lot is within specified distance of the nearest public water main. The maximum distance at which an extension shall be required will be determined by multiplying the number of lots in the subdivision by one hundred feet (100'). (Example: a subdivision with five (5) lots that is less than five hundred feet (500') away from the nearest public water main must be connected to the public water system. all water main extensions must be no less than eight inches (8") in diameter. Exceptions to this regulation may be granted by the Superintendent of the Berlin Water Works.
- 2) **Impacts on Supply.** If connection of the subdivision to the public water system requires improvements to the water supply network, then the cost of such required improvement shall be included in the applicant's performance bond by the board.
- 3) To facilitate the above, the location of all water supply and distribution system improvements, all fire hydrants, and the boundary lines of proposed water districts, shall be shown on the final plat. All elements of the water system shall be approved by the Superintendent of the Berlin Water Works and the cost of installing same shall be included in the performance bond to be furnished by the developer.
- 4) **Individual Wells and Central Water Systems.**
 - a) At the discretion of the Planning Board, if a public water system is not available, individual wells may be used or a central water system provided in such a manner that an adequate supply of portable water will be

available to every lot in the subdivision. Water samples shall be submitted to the Health Department for its approval. All central water systems shall be designed to the standards of the New Hampshire Water Supply and Pollution Control Commission and approved by the Commission. Documentation of such approval shall be included with the final plat.

- b) If the Planning Board requires that a connection to a public water main eventually be provided as a condition of approval of an individual well or central water system, the applicant shall make arrangements for future water service at the time the plat receives final approval. Performance or cash bonds may be required to insure compliance.

3.6 Sewage Facilities

- 1) **Maximum Required Connection Distance.** The determination of whether a connection between the sanitary sewer system within the subdivision and the public sewer system will be required shall be made based on the distance from the closest lot line of the closest lot to the nearest public sewer. The maximum distance at which a connection to the public sewer system will be required shall be determined by multiplying the number of lots in the subdivision by one hundred feet (100'). (Example: a subdivision with five (5) lots that is less than five hundred feet (500') away from the nearest public sewer must be connected to the public sewer system.) Exceptions to this regulation may be granted by the City Engineer.
 - a) **Downstream Impacts.** Where the public sewer system downstream of the proposed subdivision is not of adequate size or condition to convey the sewage to be produced by the subdivision, then the board may require that the applicant's performance bond be increased to include the cost of upgrading the downstream public sewer system.
 - b) If connections by other parties are made with the sewer system installed by the applicant, the City will collect from the owner of the newly connected dwelling a prorated charge which will be returned to the applicant, pursuant to Article 4:306 of the Municipal Ordinances.
- 2) Where sanitary sewer systems are not available within the maximum required connection distance and will not become available for a period in excess of fifteen (15) years, the applicant may install individual disposal systems. If individual disposal systems are proposed, minimum lot areas shall conform to the requirements of the Zoning Ordinance and the system shall be designed in accordance with and approved by the *New Hampshire Department of Environmental Services*. The individual disposal system, including the size of the septic tanks and size of the tile fields or other secondary treatment device, shall be approved by the City Engineer, in addition.

3.7 Public Uses

The Planning Board may require that land be reserved for parks and playgrounds or other recreation purposes. Each reservation shall be of suitable size, dimension, topography,

and general character and shall have adequate road access, for the particular purposes envisioned by the board. The area shall be shown and marked on the plat, "Reserved for Park and/or Recreation Purposes."

3.8 Nonresidential Subdivision

In addition to the principles and standards in these regulations, which are appropriate to the planning of all subdivisions, the applicant shall demonstrate to the satisfaction of the board that the street, parcel, and block pattern proposed is specifically adapted to the uses anticipated and takes into account other uses in the vicinity. The following principles and standards shall be observed:

- a) Proposed industrial parcels shall be suitable in area and dimensions to the types of industrial development anticipated.
- b) Special requirements may be imposed by the City with respect to street, curb, gutter, sidewalk design and construction, and the installation of public utilities, including water, sewer, and storm water drainage.
- c) Every effort shall be made to protect adjacent residential areas from potential nuisance from a proposed commercial or industrial subdivision, including the provision of extra depth in parcels backing up on existing or potential residential development and provisions for a permanently landscaped buffer strip when necessary.

Section 4. Adoption

4.1 Enactment. In order that land may be subdivided in accordance with these purposes and policy, these are hereby adopted.

4.2 Interpretation, Conflict, and Separability.

- 1) In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare.
- 2) Conflict with Public and Private Provision.
 - a) **Public Provisions.** These regulations are not intended to interfere with, abrogate, or annul any other ordinance, rule or regulation, statute, or other provision of law. Where any provisions of these regulations impose restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation, or other provision of law, whichever provisions are more restrictive or impose higher standards shall control.
 - b) **Private Provisions.** These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction.
- 3) **Separability.** If any part or provision of these regulations or application thereof to any person or circumstance is adjudged invalid by any court, such judgment

shall be confined in its operation to the part, provision, or application directly involved in all controversy in which such judgment shall have been rendered and shall not affect the validity of the remainder of these regulations or the application thereof to other persons or circumstances. The board hereby declares that it would have enacted the remainder of these regulations even without any such part, provision, or application.

4.3 Upon adoption of these regulations according to law, the Subdivision Regulations of Berlin, adopted September 11, 1963, as amended, are hereby repealed.

4.4 Amendments. For the purpose of protecting the public health, safety, and general welfare, the Planning Board may from time to time amend the provisions imposed by these subdivision regulations. Public hearings on all proposed amendments shall be held by the Planning Board. The Planning Board shall file a copy of the amended regulations with the City Clerk, per RSA 675:6.

Section 5. Definitions

5.1 Words and Terms Defined

Abutter: Any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the Planning Board. For purposes of receiving testimony only, and not for purposes of notification, the term abutter shall include any person who is able to demonstrate that their land will be directly affected by the proposal under consideration.

Applicant: The owner or designated agent of the owner of land proposed to be developed, who seeks Planning Board approval as specified in these regulations.

Approval: Means the vote by the Planning Board, at a duly called meeting of the Planning Board, that the final plan submission meets the requirements of these regulations. The final plan, revised as necessary and ready for signature by the Planning Board, the Planning Board's Chair or its designee, shall be submitted within thirty days of the Planning Board's final vote of approval, failing which the approval shall lapse. A final approval, measured from the date of the Planning Board signature, shall continue for one year unless extended by a vote of the Planning Board.

Block: A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad rights-of way, shorelines of waterways, or boundary lines of municipalities.

Bond: Any form of security including a cash deposit, surety bond, collateral, property, or instrument of credit in an amount and form satisfactory to the City.

Board: The Planning Board of the City of Berlin.

Building: Any structure built for the support, shelter, or enclosure of persons, animals, chattels, or movable property of any kind, and includes any structure.

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Capital Improvements

Program: All major projects requiring the expenditure of public funds, over and above the annual local government's operating expenses, for the purchase, construction, or replacement of the physical assets for the community are included.

City Engineer: The duly designated engineer of the City of Berlin, or if there is no such official, the planning official or other official assigned by the Berlin Planning Board.

Planning

Department: The administrative department of the City of Berlin serving as secretary to the Berlin Planning Board.

Condominium

Conveyance: For the purposes of these regulations, a condominium conveyance shall include only those condominium developments which would exceed the housing unit density per lot specified in the Berlin Zoning Ordinance for that zoning district.

Individual Sewage

System: A septic tank, seepage tile sewage disposal system, or any other approved treatment device.

Developer: The owner of land proposed to be subdivided or their representative. Consent shall be required from the legal owner of the premises.

Easement: Authorization by a property owner for the use by another, and for a specified purpose, of any designated part of their property.

Escrow: A deposit of cash with the local government in lieu of an amount required and still in force on a performance or maintenance bond. Such escrow funds shall be deposited by the Building and Zoning Inspector in a separate account.

Final Plat: The map or land or record of a subdivision and any accompanying material, as described in these regulations.

Lot: A tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or for building development.

Lot, Corner: A lot situated at the intersection of two (2) streets, the interior angle of such intersection not exceeding one hundred thirty five degrees (135).

Lot Improvement:

Any building, structure, lace, work of art, or other object, or improvement of the land on which they are situated constituting a physical betterment of real property, or any part of such betterment. Certain lot improvements shall be properly bonded as provided in these regulations.

Lot Line Adjustment: Subdivisions which do not create buildable lots (as defined by the zoning ordinance) and involves the exchange of abutting land among two or more owners which does not increase the number of owners or the number of lots.

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- Major Subdivision:** All subdivisions not classified as minor subdivisions, including but not limited to subdivisions of four (4) or more lots, or any size subdivision requiring any new street or extension of governmental facilities, or the creation of any public improvements.
- Master Plan:** A comprehensive plan for development of the local government prepared and adopted by the Planning board, pursuant to State law, and including any part of such plan separately adopted and an amendment to such plan, or parts thereof.
- Minor Subdivision:** Any Subdivision containing not more than three (3) lots fronting on an existing street, not involving any new street or the extension of municipal facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any portion of the Master Plan, Zoning Ordinance, or these regulations.
- Off-Site:** Any premises not located within the area of the property to be subdivided, whether or not in the same ownership of the applicant for subdivision approval.
- Owner:** Any person, group of persons, firm or firms, corporation or corporations or any other legal entity having legal title to or sufficient proprietary interest in the land sought to be subdivided under these regulations.
- Public Improvement:** Any drainage ditch, roadway, parkway, sidewalk, pedestrian way, tree, lawn, off-street parking area, lot improvement, or other facility for which the local government may ultimately assume the responsibility for maintenance and operation, or which may affect an improvement for which local government responsibility is established. All such improvements shall be properly bonded.
- Right-of Way:** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for another special use. The usage of the term "right-of-way for land-platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lots or parcels. Rights-of-way intended for street, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established.
- Setback:** The distance between a building and the street line nearest thereto.
- Street:** Any street, avenue, boulevard, road, alley, and any other right-of-way, excluding driveways serving no more than one (1) lot.
- Subdivider:** Any person who (1), having an interest in land, causes it directly or indirectly, to be divided into a subdivision or who (2), directly or indirectly, sells, leases, or develops, or offers to sell, lease or develop, or advertise for sale, lease, or development, any interest, lot, parcel site, unit, or plat in a subdivision, or, who (3) engages directly or through an agent in the business of selling, leasing, developing, or offering for sale, lease, or development a subdivision or any

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interest, lot, parcel site, unit, or plat in a subdivision, and who (4) is directly or indirectly controlled by, or under direct, or indirect common control with any of the foregoing.

Subdivision: The division of a lot, tract, or parcel of land into two (2) or more lots, plats, sites, or other divisions of land for the purpose, whether immediate or future, of sale, rent, lease, condominium conveyance or building development. It includes resubdivision, and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided. The division of a parcel land held in common and subsequently divided into parts among the several owners shall be deemed a subdivision.

Public hearing on amendments held on June 11, 1998.

Adopted on July 9, 1998 by the Berlin City Planning Board.

Members: _____

