

7. Homeowners' or Maintenance Association Documents if required and as provided in Article VI E. Such documents shall be acceptable to the Town as a condition of subdivision plan approval.

8. A copy of such private deed restrictions or Declaration of Restrictions, including building setback lines, as may be imposed upon the property as a condition of sale, together with a statement of any restrictions previously imposed which may affect the title to the land being subdivided. Such restrictions shall be satisfactory to the Planning Commission and Town Solicitor and shall provide, in case of any lot intended for residential use, against further division thereof by the grantee without obtaining approval by the Planning Commission.

9. Draft documents for all offers of dedication as provided in Section XI which shall bear the certificate of approval of the Town Solicitor as to their legal sufficiency.

10. Architectural renderings and elevations of the typical dwelling units which the Subdivider intends to construct in the Major Subdivision.

11. Copy of the certificate of approval of any other governmental agency which has jurisdiction or authority with regard to final approval of some aspect of the Major Subdivision.

12. Where "PLUS" review (Preliminary Land Use Pre-application Review) is required by the Town pursuant to any Memorandum of Understanding entered into between the Office of State Planning Coordination pursuant to 29 Del.C. Section 9205(c), proof of completion of the PLUS review process. (Information concerning the requirement for PLUS review may be obtained from the Town Manager).

SECTION VI. SUBDIVISION IMPROVEMENT PLANS; REQUIRED SUBDIVISION IMPROVEMENTS; SUBDIVISION IMPROVEMENTS CONSTRUCTION AGREEMENT; SUBDIVISION IMPROVEMENTS CONSTRUCTION COMPLETION AND PAYMENT BOND; SURETY; MAINTENANCE BOND; HOMEOWNERS OR MAINTENANCE ASSOCIATION.

A. IMPROVEMENT CONSTRUCTION PLANS.

The Town's Consulting Engineer shall review the applicant's subdivision improvement construction plans for compliance with the subdivision and zoning ordinances, and for compliance with Town specifications for construction and sound engineering design. The engineer shall issue written comments within 30 calendar days of receipt of plans to the owner and/or developer noting approval or disapproval of the plans. Any non-compliance comments will specify the reason and the need for plan revisions.

The owner and/or developer shall revise the improvement construction plans and resubmit to the engineer for review before the Major Subdivision Plan will be submitted to the Planning Commission for final approval.

Upon approval by the engineer, the Town's Consulting Engineer and Town Manager shall sign the improvement construction plans and specifications in duplicate certifying such approval and shall return one approved and signed set of plans to the owner and/or developer and return one signed set to the Planning Commission Secretary.

B. REQUIRED SUBDIVISION IMPROVEMENTS

1. *Streets*: Streets shall be designed to conform with the Design Standards set forth in Section VII of this Ordinance and shall be paved in accordance with specifications for paving of streets established by the Town. Internal roads, alleys, driveways, aisles and parking areas, when required, shall be constructed with a well drained base and a hard surface finish.
2. *Street Name Signs*: A street name sign identical to those already established in the area or of a design and material specified by the Town and shall be installed in a base at each street intersection in accordance with specifications of the Town.
3. *Sidewalks*: Sidewalks, where required, shall be placed between the curb line and the property line as determined by the Planning Commission and the Town's Consulting Engineer and in accordance with the Town specifications for design and material.
4. *Curbs*: Curbs shall be place on both sides of a street at maximum distance of eight (8) feet from the property line and in accordance with Town specifications for design and material.
5. *Shade Trees*: shade trees are to be located back of the curb line so as not to interfere with utilities, sidewalks or driveways, at intervals of approximately sixty (60) feet.
6. *Grading, Fill, Top Soil and Protection thereof*:
 - a. Grading shall be done to meet the requirements of the Ordinances of the Town of Greenwood or, in the absence of such ordinances, in accordance with the recommendations of the Town's Consulting Engineer, based upon commonly accepted engineering practices.

- b. All material to be used as a fill, including the disposal of any soil accumulated during development, construction and clearing of the land, must be reviewed and approved by the Planning Commission before being used or disposed. The Planning Commission shall take into consideration the water table, drainage, and soil characteristics of the site in question when making such a decision.

7. Buffer Zone Planting: Where buffer zones are required or proposed , they shall be planted with vegetation of such type and quality to produce, from time of planting, a screening hedge of sufficient density and height to effectively perform its purpose the year round. Such proposed plantings shall be approved by the Planning Commission prior to approval of the subdivision.

8. Culverts, Storm Sewers, Storm Water Management Areas and Retention Ponds: Culverts, storm sewers, and storm water management areas/retention ponds shall be properly installed and connected with the Town drainage system or as determined by the Town's Consulting Engineer or other authorized Town authority.

9. Sanitary Sewers: Sanitary sewers shall be properly installed and connected with the Town system in accordance with the requirements of the Town or as determined by the Town's Consulting Engineer or other authorized Town authority.

10. Water: Water system improvements shall be properly installed and connected with the Town system in accordance with the requirements of the Town or as determined by the Town's Consulting Engineer or other authorized Town authority.

11. Lighting: Street lighting shall be properly installed in accordance with the requirements of the Town of Greenwood.

C. SUBDIVISION IMPROVEMENTS CONSTRUCTION AGREEMENT.

Prior to obtaining a Subdivision Improvements Construction Permit, the subdivider shall execute and deliver a "Subdivision Improvements Construction Agreement" with the Town, in form acceptable to the Town Solicitor and Town Consulting Engineer, governing the installation of all subdivision improvements.

D. SUBDIVISION IMPROVEMENTS CONSTRUCTION COMPLETION AND PAYMENT BOND; SURETY; MAINTENANCE BOND.

1. *Subdivision Improvements Construction Completion and Payment Bond.* Subject to Articles IV D and VIII B ("Phased Development"), prior to obtaining a Subdivision Improvements Construction Permit, the applicant shall provide the Town with a Subdivision Improvements Construction Completion and Payment Bond approved as to form by the Town Solicitor, in an amount equal to 125 percent of the estimated cost of the construction for all improvements (not already completed to the satisfaction of the Town Consulting Engineer). The amount of such completion bond shall be based upon estimates approved by the Town's Consulting Engineer in writing. Every completion bond shall be accompanied and secured by an "approved surety" as hereinafter provided.

The completion bond shall be conditioned upon the faithful completion by the owner and/or developer of each and every item shown on the approved subdivision improvements construction plans, in accordance with each and every item identified in any written Subdivision Improvements Construction Agreement with the owner and/or developer, and in strict accordance with the Town's standards and specifications, at the time and in the manner prescribed within the time limits established by this ordinance, including the payment in full to every person furnishing material or performing labor in the construction of the improvements of all sums of money due him for such labor or material. The completion bond shall contain the owner and/or developer's guarantee to indemnify and save harmless the Town for all costs, damages and expenses growing out of or by reason of the owner and/or developer's failure to complete the improvements in strict accordance with the Town's standards and specifications including, but not limited to, court costs and reasonable attorney and expert witness fees.

The completion bond shall remain in place until one hundred percent (100%) of all improvements covered by this bond are accepted by the Town. Failure to comply with this requirement may result in a "stop work order" being issued by the Town. In such case, no further zoning compliance certificates or certificates of occupancy will be issued by the Town until the completion bond is resubmitted and accepted by the Town.

2. *Maintenance Bond.* Prior to the final release of the Subdivision Improvements Construction Completion and Payment Bond or as a part thereof, the owner and/or developer shall submit to the Town Council a maintenance bond as specified in Section XI (C). Said maintenance bond shall continue in force for a period of one year from the date of acceptance of the improvements by the Town Council.

3. *Approved Surety.* For purposes of this section, "approved surety" shall be limited to:

a. Cash or certified check deposited in a Delaware bank to the credit of the Town in an amount equal to the amount of the bond.

b. A first lien mortgage in an amount equal to double the amount of the bond in favor of the Town upon real estate situate in the Town, the

appraised value of which real estate shall be at least double the amount of the bond. In the event the owner and/or developer elects to provide surety in the form of a first lien on real estate as herein above provided, he shall, at his own expense and before the subdivision improvement construction permit may be issued, provide the Town with:

(i) An appraisal of the subject property prepared by and certified to by a real estate appraiser licensed to do business in the state and approved by the Town.

(ii) A certificate of title executed by an attorney at law admitted to practice before the Supreme Court of Delaware and approved by the Town certifying that the mortgagor is seized of good and marketable fee simple title to the subject real estate and that there is of record in the Sussex County Recorder of Deeds a duly executed and properly recorded mortgage creating a first lien against the subject real estate in favor of the Town in an amount equal to double the amount of the completion bond.

c. Letter of credit. Such letter of credit shall be for such term as acceptable to the Town and shall provide that it shall automatically re-new for an additional like term unless the Town receives written notice (via registered mail) not less than 30 days nor more than 60 days prior to the then-current expiration date, to permit a request for an extension or to permit the Town to draw thereon. Nothing herein shall preclude the Town from requiring a letter of credit which does not have an expiration date.

4. *All Documents Subject To Approval of Town Solicitor.* All documents required under this Section VI D shall be in form acceptable to and approved by the Town Solicitor.

E. HOMEOWNERS OR MAINTENANCE ASSOCIATION.

1. *When Required.* Where ownership of any street, alley, sidewalk, open space, improvement, stormwater management area or retention pond, parking area, or other land or fixture is not being conveyed to the Town, Sussex County, or the State of Delaware in connection with development of the subdivision, the owner and/or developer shall create a homeowners or maintenance association. The association shall be organized and established as a legal entity prior to issuance of a Subdivision Improvements Construction Permit. All documents related to the association (e.g. certificate of incorporation, by-laws, Declaration of Restrictions) shall be submitted in draft form prior to final plat approval. Proof of the formation of such association and the recordation of deed restrictions making the record owner of all lots in the subdivision a member of such association shall be provided to the Town Manager as a condition of obtaining a Subdivision Improvements Construction Permit.

2. *Preparation, Review, And Recording Of Documents.* The owner and/or developer shall pay for the preparation of the legal documents necessary to create

the association, to have same reviewed and approved by the Town Solicitor, and to record same in the Recorder of Deeds office.

3. *Delegation of Enforcement Authority To Town.* The association documents shall grant the Town the authority (but not the obligation) to require the association to perform routine maintenance and minor/major repairs as necessary to keep the lands or improvements subject thereto in good condition, and eliminate any health or safety issues. If the association does not respond to any Town citation within 14 calendar days, the Town shall have the right (but not the obligation) to perform the work itself and assess each property owner of the association a fee to recover the Town's cost. Such documents shall provide that any such assessments may be filed as a lien of record against each property owner and enforced as any other lien.

4. *Association requirements.* If the applicant is required to establish an association pursuant to this Section, such association documents shall require, at minimum:

a. *Membership mandatory.* Membership in the organization shall be mandatory for all purchasers of properties within the subdivision and their successors and assigns, and membership shall be inseparable from property ownership. Membership shall become effective upon the first conveyance of a lot by the developer. The members of the association shall share equitably in the costs of maintaining any street, alley, sidewalk, open space, improvement, stormwater management area or retention pond, parking area, or other land or fixture, in accordance with the provisions of all deed restrictions and maintenance agreements, all applicable property maintenance codes, all record plan notes, and in accordance with procedures established by the association, unless and until such land and/or improvements are conveyed to, and accepted by, the Town, Sussex County, or the State of Delaware, by appropriate written document, duly recorded. The deed restrictions shall require, at minimum, that the costs of such maintenance shall be collectable from the owner(s) of the lot(s) to which such costs are assessed and from their successor(s)-in-interest; and that such costs shall be and constitute a lien upon such lot(s), subordinate only to the lien of any mortgage on the property regardless of the priority of such mortgage.

b. *Responsibilities.* The association shall be responsible for all maintenance, insurance, taxes, fees, expenses, and other burdens customary to the ownership of the subject real property and all improvements and construction thereon, including but not limited to all recreation amenities, walkways, storm water facilities, retention ponds, landscaping, and other facilities not owned or accepted by the Town, County, or State.

c. *Deed restrictions.* Restrictive covenants shall provide that in the event the association fails to maintain the subject lands and/or improvements according to the standards of the Town, in accordance with the recorded plan, and in accordance with the requirements of the recorded restrictions, the Town, following reasonable notice may:

- (i) Demand that the deficiency of maintenance be corrected; or
- (ii) Enter upon the lands to maintain same. The cost of such maintenance shall be charged to the association; or
- (iii) Enforce collection of all assessments owing to the association from the members thereof in accordance with the provisions of the association's organizational documents and/or deed/declaration of restrictions, to the same extent as the association could itself undertake such enforcement.

F. PROHIBITION ON SALE OR LEASE OF LOTS.

Anything in this ordinance to the contrary notwithstanding, no lot or parcel of land located within any Major Subdivision for which final approval has been obtained shall be conveyed or leased by the owner of record until, as to each Major Subdivision or phase thereof as applicable: (a) a Subdivision Improvements Construction Agreement has been executed with the Town; (b) a Subdivision Improvements Construction Completion and Payment Bond with approved surety has been provided to and accepted by the Town, and, (c) if required, a Homeowners or Maintenance Association has been created in full compliance with Section VI E. Any conveyance or lease in violation of this provision shall be voidable at the suit of the Town or any affected property owner. *Provided however*, that nothing herein shall prohibit the conveyance or lease of lands within a Major Subdivision to another subdivider or developer for the purpose of re-sale or sub-lease to "end-use" purchasers.

SECTION VII. DESIGN STANDARDS

The subdivider shall observe the following requirements and principles of land subdivision in the design of each subdivision or portion thereof.

A. General.

The subdivision plat shall conform to design standards that will encourage good development patterns within the Town. The Town's requirements of streets, drainage, right-of-ways, storm sewer, water supply and fire protection, sanitary sewer, street lighting, school sites, public parks and playgrounds shall be satisfied before final approval of the subdivision plat. The streets, drainage, right-of-ways, storm sewer or sanitary sewer, and water distribution plans shall be such as to lend themselves to the harmonious development of the Town and enhance the public welfare in accordance with the following design standards:

B. Streets.

- 1. The arrangements of streets shall be such as to provide for the

appropriate extension of existing streets.

2. Minor streets shall be so designed as to discourage through traffic.

3. Subdivisions abutting arterial streets shall provide a marginal service road, or reserve frontage with a buffer strip for planting, or some other means of separation of through and local traffic as the Planning Commission may determine appropriate.

4. The minimum right-of-way width shall be measured from lot line to lot line and shall be in accordance with the following schedule:

a. Arterial Streets 80' – 120'

b. Collector Streets 50'

c. Minor Streets 50'

d. Marginal Access Streets 40'

e. Internal roads alleys driveways, aisles and parking areas in business and industrial developments shall be designed and built to satisfy the requirements of the Town.

5. No subdivision showing reserve strips controlling access to streets shall be approved.

6. Subdivisions that adjoin or include existing streets that do not conform to the street width requirements of this ordinance, shall dedicate additional width along either one or both sides of said road.

7. Grades of arterial and collector streets shall not exceed four percent (4%). Grades on other streets shall not exceed ten percent (10%). No street shall have a minimum grade less than three tenths of one percent (.3 of 1%).

8. Street intersections shall be as nearly at right angles as is possible and in no case shall be less than sixty (60) degrees. The block corners at intersections shall be rounded at the curb line with a curve having a radius of not less than twenty (20) feet.

9. Street jogs with center line offsets of less than one hundred twenty five (125) feet shall be prohibited.

10. A tangent at least one hundred (100) feet long shall be introduced between reverse curves on arterial and collector streets.

11. When connecting street lines deflect from each other at any point by more than ten (10) degrees they shall be connected by a curve with a radius of not less

that one hundred (100) feet for Minor streets and three hundred (300) feet for Arterial and Collector streets.

12. All changes in grade shall be connected by vertical curves of sufficient radius to provide a smooth transition and proper sight distance.

13. Dead end streets (cul-de-sac) of a permanent nature shall not be longer than four hundred (400) feet and shall provide a turn around at the end with a radius of forty (40) feet.

14. If a dead end street is of temporary nature, a similar turn around shall be provided and provisions made for future extension of the Street and reversion of the excess right-of-way, to the adjoining properties.

15. No street shall have a name which will duplicate or so nearly duplicate the name of another street in the Town as to be confused with the names of existing streets. The continuation of an exiting street shall have the same name.

16. All minor roadways shall be thirty-four (34) feet between curbs and paved for the entire width.

C. BLOCKS.

1. Block length and width or acreage within bounding roads shall be such as to accommodate the size of lots required in the area by the Zoning Ordinance and to provide for convenient access, circulation control, and safety of street traffic.

2. In blocks over one thousand (1,000) feet long, pedestrian crosswalks may be required in location deemed necessary by the Planning Commission. Such walkway shall be ten (10) feet wide and to be straight from street to street. There shall be installed a four (4) foot walk paved in accordance with Town Specifications. Lots abutting such a walkway shall be treated as a corner lot.

D. LOTS

1. Lot dimensions and area shall not be less than the requirements of the Town Zoning Ordinance.

2. Insofar as practical, side lot lines shall be at right angles to a straight street, and radial to curved streets. Lot design shall be such that the lot arrangement, design, and shape are such that lots will provide satisfactory and desirable sites for buildings, will encourage a variety of housing types and styles (as permitted for the zoning district), will recognize the natural features of the land, and conform to the requirements of this ordinance and the Town zoning ordinance. Lots shall not contain peculiarly shaped elongations solely to provide the necessary square footage to meet

minimum lot area requirements where the area contained within such elongated shape would be unusable for normal purposes.

3. Each lot must have sufficient frontage on a street to meet the requirements of the zoning ordinance. Unless such street has been approved and authorized as a private street by the Planning Commission as part of the subdivision approval process, street frontage shall be on a public street as defined in this ordinance.

4. Where extra width has been dedicated for widening of existing streets, lots shall begin at such extra width line, and all setbacks shall be measured from such line.

5. Where there is a question as to the suitability of a lot or lots for its intended use due to factors such as rock formations, extreme grade, state or federal wetlands, flood conditions, or similar circumstances, the Planning Commission may, after adequate investigation, withhold approval of such areas.

6. Lot lines shall follow municipal boundary lines rather than cross them.

E. PUBLIC USE AND SERVICE AREAS.

1. In developments, easements along real property lines or elsewhere for utility installation may be required. Such easements shall be at least fifteen (15) feet wide and located in consultation with the companies or municipal departments concerned.

2. 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 with the lines of such water course, such further width or construction, or both, to be adequate for the purpose. A drainage way channel which lies along a road and in front of lots or where it is determined that such would be a hazard to health and life, by the Planning Commission, shall be adequately replaced by storm sewer pipe of a size determined by the Town's Consulting Engineer. Setback line requirements, as established by the Zoning Ordinance, along water-courses, etc., shall be satisfied.

3. Natural features such as trees, brooks, hill tops and views shall be preserved whenever possible in designing any subdivision containing such features.

F. PARKING AREAS.

Sufficient parking areas shall be provided meeting or exceeding the parking requirements established by the Town Zoning Ordinance.

G. FLOOD CONTROL.

Land subject to flooding and land deemed by the Planning Commission to be uninhabitable shall not be platted for residential occupancy, nor for such other uses as may increase danger to health, life or property, or aggravate the flood hazard; but such land within the plat shall be set aside for such uses as will not be endangered by periodic or occasional inundation and as will not produce unsatisfactory living conditions; or shall be adequately drained and filled in accordance with governing regulations to the satisfaction of the Town of Greenwood and/or the Sussex County Soil Conservation District and/or any state or federal agency having jurisdiction thereof.

VIII. SUBDIVISION IMPROVEMENTS CONSTRUCTION PERMIT.

A. ISSUANCE OF PERMIT. Upon: (a) final approval and recording of the Major Subdivision plat by the Planning Commission, (b) execution and delivery of the approved Subdivision Improvements Construction Agreement and the approved Subdivision Improvements Completion and Payment Bond (with approved surety), (c) payment of the appropriate construction permit and impact fees, and (d) filing and recording of the appropriate Declaration of Restrictions and Homeowners/Maintenance Association documents, the Town Manager shall, at the written request of the subdivider, issue a Subdivision Improvements Construction Permit authorizing the owner and/or developer to construct the subdivision improvements per the approved plans and specifications. Issuance of the permit allows work to begin, but does not constitute acceptance of the work to be performed thereunder. Such permit shall become null and void, if the work is not commenced within six months from the date of the permit issuance; provided, however, such permit may be extended for six months upon written application to and written approval from the Town Manager.

B. DEVELOPMENT BY PHASES. An owner and/or developer seeking to develop less than the entire approved subdivision at one time may develop the subdivision phases by phases subject to the following:

1. No deviation from the Major Subdivision Plat and phasing timetable as finally approved and recorded, and no deviation from the Subdivision Improvement Construction Plans as finally approved, shall be permitted unless such change is approved by the Planning Commission and Town Consulting Engineer.

2. If construction and development is entirely consistent with all plats and plans as approved by the Planning Commission and the Town Consulting Engineer, the subdivider may obtain a Subdivision Improvements Construction Permit from the Town Manager for each phase for which construction is to commence upon: (a) execution and delivery of the approved Subdivision Improvements Construction Agreement for the improvements in that phase, (b) the approved Subdivision Improvements Completion and Payment Bond (with approved surety) covering all improvements within that phase, (c) proof that all lots in that phase are subject to a recorded deed restrictions making the owners thereof members of a duly-existing homeowners or maintenance association in accordance with Section VI E, and (d) payment of the appropriate construction permit and impact fees in connection with all

improvements in that phase. . Provided further, anything herein to the contrary notwithstanding, no subdivider shall be issued a Subdivision Improvements Construction Permit to commence construction of improvements in any subsequent phase of a "phased" Major Subdivision until at least 70% of all subdivision improvements have been completed and approved by the Town in all prior phases of the Major Subdivision.

3. Water mains in each phase shall be designed and constructed so as to be looped (connected at two remote locations), prior to being used for potable water unless such requirement is waived by the Town's Consulting Engineer for reasonable cause.

4. No dead end streets shall be permitted upon completion of the entire subdivision unless designed and completely constructed under the classification of "cul-de-sac." Each phase shall be designed and constructed such that segments of any street resulting in a dead end shall include a cul-de-sac or a "T" background in accordance with Section VII B (13)

C. TIME TO COMPLETE CONSTRUCTION. All work within a Major Subdivision or an approved phase thereof shall be fully completed within two years of the date of the Subdivision Improvement Construction Permit issued for that Major Subdivision or phase; provided however, that an owner and/or developer may, upon a showing of good cause, obtain an extension of time to fully complete such improvements by resolution of the Town Council after hearing the recommendations of the Planning Commission. The responsibility for obtaining an extension of time shall be upon the owner and/or developer and the failure to fully complete all required subdivision construction improvements within the permitted time limit (including any extensions thereof) shall, at the Town's sole option, constitute a breach of the owner and/or developer's approved surety which breach shall authorize and empower the Town to exercise any and all remedies including but not limited to:

1. Declaring the owner and/or developer in default under its subdivision improvements completion and payment bond and commencing execution proceedings thereunder.

2. Entering into possession of all uncompleted subdivision improvement and causing the same to be completed by employees of the Town and/or by independent contractors retained by the Town, the cost thereof to be recovered from the owner and/or developer and/or the owner and/or developer's approved surety.

3. Bringing an action at law for damages against the owner and/or developer. Should the Town bring any action or proceeding at law to recover damages, and if the Town recovers judgment in any sum, the Town shall also recover its reasonable attorney's fees plus service charges, interest, and all litigation expenses, including witness fees and court costs.

4. Bringing an action in equity for specific performance against the owner and/or developer, and if the Town is the prevailing party in such action, the Town shall also recover its reasonable attorney's fees plus service charges, interest, and all litigation expenses, including witness fees and court costs.

SECTION IX. INSPECTION BY TOWN'S CONSULTING ENGINEER.

A. INSPECTIONS.

All of the Subdivision Improvements as shown on the approved Subdivision Improvements Construction Plans shall be subject to inspection and approval by the Town's Consulting Engineer who shall be notified not less than twenty-four (24) hours prior to such installation. No underground installation shall be covered until inspected and approved by the Town's Consulting Engineer or other authorized Town authority.

B. COST OF INSPECTIONS TO BE PAID BY SUBDIVIDER. The cost of such inspection services shall be reimbursed to the Town by the subdivider on a monthly basis. Any payment not made within 30 days shall be subject to a late penalty of 10% per month. Where payment is not made within 60 days, the Town may issue a "stop work" order until payment in full is made. Where the Town's Consulting Engineer reports to the construction site for a scheduled inspection and: (a) the subdivider or its contractor is not present; (b) the work is not ready for inspection; or (c) the work inspected is not approved, the cost of such inspection visit shall nevertheless be reimbursed to the Town by the subdivider.

SECTION X. "AS-BUILT" PLANS

A. SUBMISSION. Upon completion of construction of the infrastructure improvements for any major subdivision or phase thereof, the owner and/or developer shall submit "as-built" plans reflecting any approved revisions to the previously approved subdivision improvement construction plans. Submission to the Town engineer shall include the following:

1. Completed application form.
2. Three sets of prints of the as-built plans.
3. "As-built" Plan review fee per Section XVI.

B. REVIEW BY TOWN CONSULTING ENGINEER. The Town's Consulting Engineer shall review the "as built" plans to determine their conformity with the approved final subdivision and improvement construction plans, and their compliance with the subdivision ordinance. The engineer shall sign the "as built" plans certifying that he has approved the plan on the date shown, that any improvements not completed have the surety required by section VI D (1) in place, and that the maintenance bond required by section VI D (2) and XI (C) is in place for those improvements that have been

satisfactorily completed and are to be dedicated or conveyed to the Town. One set of approved as-built plans will be returned to the owner and/or developer.

SECTION XI. DEDICATION AND ACCEPTANCE OF PUBLIC IMPROVEMENTS; MAINTENANCE BOND

A. DEDICATION AND ACCEPTANCE. Dedication of streets and utility systems shall be by appropriate deeds, deeds of easements and/or bill of sale, all in form acceptable to the Town Solicitor, to be executed by the owner and/or developer and delivered to the Town at such time as the Town is prepared to accept ownership and responsibility for the various site improvements. The owner and/or developer shall pay for the recording of the appropriate documents at the Recorder of Deeds Office.

B. STREETS, PARKS AND OTHER IMPROVEMENTS TO REMAIN PRIVATE UNTIL DEDICATED OR CONDEMNED.

1. Every street, park, or other public open space or improvement shown on a final subdivision plan or as-built plan shall be deemed to be a private street, park, open space or improvement until such time as the same has been offered for dedication to the Town and accepted by ordinance or resolution of the Town Council, or until it has been condemned for use as a public street, park, open space or improvement. Until acceptance or condemnation by the Town, the owner and/or developer and their successors and assigns shall at all times be responsible for the maintenance of all such subdivision improvements including but not limited to street sweeping, snow plowing, maintenance and repairs of water installations (including fire hydrants), maintenance and repairs of sewer installations, maintenance of erosion and settlement, street damage, curb damage, sidewalk damage, storm water collection and drainage facilities, and street lights, street signs, signals, as well as the cost of electricity for street lighting. If the owner and/or developer or their successors and assigns fail to make such repairs, perform such maintenance, and/or fail to provide street lighting (if required) after receiving reasonable advance written notice from the Town, the Town shall be authorized (but not obligated) to perform such maintenance, make such repairs, or pay for street lighting, and charge the cost of all such repairs and maintenance and/or street lighting to the owner and/or developer, to the owner and/or developer's approved surety, or to the owner and/or developers' successors and assigns, as appropriate. "All costs" as used herein shall include but is not limited to: labor, materials, equipment, engineering, bidding, electric bills, court costs and expert witness and attorney's fees.

2. After the as-built plans have been approved and the Town Council accepts streets, the streets shown thereon shall be considered to be a part of the Town's plan of streets.

C. MAINTENANCE BOND.

No subdivision improvement constructed under authority of any Subdivision Improvement Construction Permit issued pursuant to section VIII A shall be accepted by

the Town, and the Town shall have no responsibility for any such subdivision improvements, until the owner and/or developer submits a maintenance bond with approved surety, in form acceptable to the Town, pursuant to section VI D (2) and XI (C). Such maintenance bond shall be in an amount equal to ten percent (10%) of the actual cost of installing/constructing such improvements and shall remain in place for a period of one year from the date of the Town's acceptance of such improvements. Such maintenance bond shall guarantee the proper repair or replacement of any accepted improvement necessitated by defective materials, workmanship, or design.

SECTION XII. VIOLATIONS; PENALTY.

A. UNAUTHORIZED SUBDIVISIONS VOIDABLE BY TOWN OR ANY AFFECTED PROPERTY OWNER.

Where any plat or deed is recorded, the effect of which would be to create a subdivision as defined in this ordinance, without final approval from the Town in accordance with the provisions of this ordinance, such plat or deed shall be voidable at the suit of the Town or any affected property owner.

B. PENALTY.

If, before final approval has been obtained as provided in this ordinance, any person transfers, sells, or contracts to sell, as owner or agent, any land which forms a part of a subdivision upon which, by this ordinance, the Planning Commission is required to act, such person shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00) and each parcel, plat, or lot so disposed of shall be deemed a separate violation.

If any person transfers, leases, sells, or contracts to sell or lease any land which forms a part of a Major Subdivision in violation of Section VI F of this ordinance, such person shall be subject to a fine not to exceed One Thousand Dollars (\$1,000.00) and each parcel, plat, or lot so disposed of shall be deemed a separate violation.

In addition to the foregoing, if the streets or lots in the subdivision are such that a structure on said land in the subdivision would not meet requirements for a building permit, the municipality and/or the transferee, purchaser, or grantee may institute and maintain a civil action for declaratory and injunctive relief to set aside the conveyance. In any such action the transferee, purchaser or grantee shall be entitled to a lien upon the portion of the land from which the subdivision was made that remains in the possession of the subdivider or his assigns or successors, to secure the return of any deposit made or any purchase price paid, and also a reasonable search fee, survey expense, and title closing expense, if any. Any such action must be brought within two (2) years after the date of the recording of the instrument of transfer, sale or conveyance of said land, or within six (6) years if unrecorded.

SECTION XIII. VARIANCES.

The Planning Commission may, upon a showing of un-necessary hardship or exceptional practical difficulties, grant a variance from the provisions of this ordinance. Any such variance shall be the minimum variance necessary under the circumstances. No variance shall be granted until after a public hearing held on at least 15 days public notice. Such notice shall be posted at the Town Hall, Library, Post Office, and on the subject property, and publication in a newspaper of general circulation in the Town. Notice shall be sent by mail to the applicant, to the Office of State Planning, and to the owners of record of all properties abutting the proposed Major Subdivision at those addresses provided to the Town by the Applicant. The Applicant shall be responsible for the accuracy of the list of abutting owners of record and their addresses. Such hearing shall be conducted in the same manner as hearings before the Town Board of Adjustment. Applications for a variance under this section shall be submitted on a form provided by the Town Manager and accompanied by such filing fee as provided in Section XVI of this ordinance, which filing fee may include the Town's costs for posting, newspaper publication, and mailing of the required notices.

SECTION XIV. ACTION BY AGGRIEVED.

If any person shall be aggrieved by the action of the Planning Commission, an appeal in writing to the Town Council may be taken within ten (10) business days after the date of the action of the Planning Commission. An appeal under this section shall be submitted on a form provided by the Town Manager and accompanied by such filing fee as provided in Section XVI of this ordinance, which filing fee may include the Town's costs for posting, newspaper publication, and mailing of the required notices. A hearing thereon shall be had on notice to all parties in interest who shall be afforded an opportunity to be heard. Notice of such hearing shall be given at least ten (10) days prior to the hearing by publication in a newspaper of general circulation in the Town, by posting at the Town Hall, Library, Post Office, and on the subject property, and publication in a newspaper of general circulation in the Town. Notice shall be sent by mail to the applicant, to the Office of State Planning, and to the owners of record of all properties abutting the proposed Major Subdivision at those addresses provided to the Town by the person aggrieved. The person aggrieved shall be responsible for the accuracy of the list of abutting owners of record and their addresses. After such hearing the Town Council may affirm, reverse, or modify the action of the Planning Commission or remand the matter to the Planning Commission for further action, by a recorded vote of a majority of all members of the Town Council. The Town Council shall, within 30 days following the conclusion of the hearing adopt a written decision setting forth its findings and reasons for the disposition of the appeal. All parties in interest shall be mailed a copy of such written decision.

SECTION XV. VALIDITY.

To the extent of any inconsistency, this ordinance shall control and supercede as against all other ordinances or parts thereof excepting only the Town Zoning Ordinance and Town Building Code.

If any article, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional, invalid, or unenforceable, such decision shall not affect the remaining portions of this ordinance which shall remain in full force and effect.

SECTION XVI. SCHEDULE OF FEES AND CHARGES.

All fees and charges in connection with any application, approval, permit, or other action to be taken by the Town under this ordinance are set out in the Town of Greenwood "Schedule of Fees and Charges" on file at the Town Hall, as the same may, from time to time hereafter, be revised by resolution of the Town Council.

SECTION XVII. EFFECTIVE DATE.

These Subdivision Regulations shall become effective upon adoption and shall remain in force until amended or rescinded by Ordinance.

THIS SHALL CERTIFY THAT THIS IS A TRUE AND CORRECT COPY OF THE "TOWN OF GREENWOOD SUBDIVISION ORDINANCE" AS ADOPTED BY THE TOWN COUNCIL OF THE TOWN OF GREENWOOD BY A MAJORITY VOTE AT A DULY-NOTICED REGULAR MEETING AT WHICH A QUORUM WAS PRESENT.

ATTEST: Jessica Duggutt 2/17/09
TOWN CLERK DATE

Willard Russell
MAYOR