

SECTION I. PURPOSE AND AUTHORITY

A. PURPOSE (Section 81-M of Chapter 41 M.G.L.)

These Subdivision regulations are adopted under the provisions of Chapter 41 of the General Law for the purpose of protecting the safety, convenience and welfare of the inhabitants of the City of Haverhill by regulating the laying out and construction of ways in subdivisions providing access to the several lots therein, but which have not become public ways, and ensuring sanitary conditions in subdivisions and in proper cases parks and open areas.

These regulations are comprehensive, reasonably definite and carefully drafted so that owners and developers may know in advance what is or may be required of them and what standards and procedures will be applied to them. While these regulations establish standards to be specifically applied by the Haverhill Planning Board in terms of providing guidance as to what is to be required of owners and applicants, these regulations are also intended to provide the Planning Board adequate flexibility to tailor decisions to specific facts and circumstances.

The powers of the Haverhill Planning Board under the subdivision control law shall be exercised with due regard for the provision of the following:

1. Adequate access to all of the lots in a subdivision by ways that will be safe and convenient for travel;
2. For lessening congestion in such ways and in the adjacent public ways;
3. For reducing danger to life and limb in the operation of motor vehicles;
4. For securing safety in the case of fire, flood, panic and other emergencies;
5. For insuring compliance with the City of Haverhill zoning ordinances and by-laws;
6. For securing adequate provision for water, sewerage, drainage, underground utility services, fire, police, and other similar municipal equipment, and street lighting and other requirements where necessary in a subdivision; and
7. For coordinating the ways in a subdivision with each other and with the public ways in the city and with the ways in neighboring subdivisions.
8. For ensuring the maximum provision of open space both within and around subdivisions. Design options which provide for a maximum amount of open space possible shall be encouraged by the Board

8. The Haverhill Planning Board shall insure that public facilities and services are available concurrent with any development. These facilities and services shall have sufficient capacity to serve the proposed subdivision. In accomplishing this purpose, the City of Haverhill will be required to bear no cost for the provision of necessary on-site or off-site facilities, services and improvements by requiring the developer to pay fees, furnish land, undertake construction or establish mitigation measures to ensure that the development provides adequately for the capital facility needs generated by the development. As it relates to the provision of adequate public facilities including roadways, water, sewer and other facilities for a proposed subdivision, the Haverhill Planning Board shall consider off-site conditions and may require such improvements to be provided at no cost to the City.
9. Such powers may also be exercised with due regard for the policy of the commonwealth to encourage the use of solar energy and protect the access to direct sunlight of solar energy systems.

It is the intent of the subdivision control law that any subdivision plan filed with the planning board shall receive the approval of the board if said plan conforms to the recommendation of the board of health and to the rules and regulations of the planning board pertaining to subdivisions of land; provided, however, that the board may, when appropriate, waive, as provided for in section eighty-one R, such portions of the rules and regulations as is deemed advisable. (see section C below)

B. AUTHORITY

Under the authority vested in the Planning Board of the City of Haverhill by Section 81-Q of Chapter 41 of the Massachusetts General Laws, said board hereby adopts these rules and regulations governing the subdivision of land in the City of Haverhill. Such rules and regulations shall be effective on and after **June 14, 2000**. Under the above authority, the Haverhill Planning Board shall insist on strict conformance with the standards established in these regulations in all cases except where a waiver of conditions pursuant to Section C below is granted.

C. WAIVER OF CONDITIONS

General. Consistent with the authority vested in the Planning Board by section 81-R described above, where the planning board finds that unique circumstances or demonstrated practical difficulties shall 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 waiver of conditions to these subdivision regulation so that the public interest may be secured; provided that the waiver conditions shall not have the effect of nullifying the intent or purposes of these regulations;

and further provided the planning board shall not approve waiver of conditions unless it shall make findings based on the evidence presented to it in each specific case that one or more of the conditions below exists :

1. The granting of the waiver of conditions will not be detrimental to the public safety, health, or welfare or injurious to other property.
2. The conditions upon which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property
3. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular difficulty to the owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out.
4. The relief sought will in no way vary the provisions of the zoning by law, master plan, or official map except that those documents may be amended in the manner prescribed by law.
5. The relief is sought in a case where the applicant is proposing a substantial commitment of open space within the subdivision. Substantial dedication of "open space" shall be at the discretion of the Board but shall be at least 50% of the total acreage dedicated as open space and the project is consistent with the design standards for open space cluster projects.
6. In approving a waiver of conditions, the planning board may require such conditions as will in its judgement, secure substantially the purposes of these regulations.
7. Any lot depicting inadequate frontage even if the lot(s) has received a variance(s) from the Haverhill Board of Appeals shall be filed as a definitive plan under these rules and regulations and require that the Board approve a frontage waiver under the requirements of this section. The plan showing a lot(s) having less than the required frontage is not entitled to Form A(ANR) endorsement even if the zoning board of appeals has granted a frontage variance for the lot and therefore, the plan shall be filed in accordance with the definitive plan requirements of these rules and regulations. In the case of a frontage waiver, the Board shall give major consideration to whether the frontage when waived provides adequate actual access to the buildable portion of the lot as defined herein.

Procedures. A petition for a waiver of conditions shall be submitted in writing by the subdivider at the time when the preliminary plan is filed for the consideration of the planning board. The petition shall state fully the grounds for the application and all of

the facts relied upon by the petitioner. If a preliminary plan is not filed, the petition for a waiver of conditions shall be filed with the definitive plan.

D. COMPLIANCE WITH THE RULES AND REGULATIONS

All plans submitted to the Planning Board for review shall comply with the Subdivision Rules and Regulations. Failure to comply with the Rules and Regulations shall give the Planning Board the authority to request that the applicant withdraw the plan before the Board. If the applicant fails to withdraw the application before the Board, the Board shall then deny the plan upon failure to comply with the procedures or standards of the Subdivision Rules and Regulations.