

*SUBDIVISION REGULATIONS  
ALBANY, NH*

**SUBDIVISION REGULATIONS  
OF THE  
TOWN OF ALBANY, N.H.**

(Adopted June 2, 1981; Amended 3/9/82, 1/14/97, 5/12/10, 3/13/12)

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**I. PREAMBLE**

**A. AUTHORITY AND PURPOSE**

Pursuant to the authority vested in the Albany Planning Board by the voters of the Town of Albany on March 10, 1981, and in accordance with the provisions of RSA 674:35 of the New Hampshire Revised Statutes Annotated, as amended, the Albany Planning Board adopted the following regulations governing the subdivision of land in the Town of Albany, New Hampshire on June 2, 1981. (Amended 1/14/97)

These regulations are designed to accomplish the purposes set forth in RSA 674:36 and for the purposes of protecting the health, safety, convenience, and economic and general welfare of our citizens.

The following regulations apply to residential subdivisions. The question of non-residential/commercial subdivision is addressed by the Site Plan Review Regulations adopted by the Planning Board on October 13, 1987. (RSA 674:43 & 44)

**B. TITLE**

These regulations shall be known and cited as the SUBDIVISION REGULATIONS OF ALBANY, NEW HAMPSHIRE.

**II. DEFINITIONS**

- A. ABUTTER:** Any person whose property is located in Albany, New Hampshire, and that either adjoins or is directly across the street or stream from the land under consideration by the Planning Board. For the purposes of receiving testimony only, and not for the purpose of notification, the term "abutter" shall include any person who is able to demonstrate that his land will be directly affected by the proposal under consideration. For purposes of receipt of notification by a municipality of a local land use board hearing, in the case of an abutting property being under a condominium or other collective form of ownership, the term "abutter" means the officers of the collective association, as defined in RSA 356-13:3, XXIII. (RSA 672:3) [Added: 3/9/82: amended 1/14/97]
- B. APPLICANT:** The owner of record of the land to be subdivided, including any subsequent owner of record making any subdivision of such land or any part thereof, or the duly authorized agent of any such owner. (Added 1/14/97)
- C. APPROVAL:** Recognition by the Planning Board, certified by written endorsement on the plat, that the plat meets the requirements of these Regulations and, in the judgment of the Board, satisfies all criteria of good planning and design. (Added 1/14/97)
- D. BOARD:** The Planning Board of the Town of Albany.
- E. CERTIFIED SOIL SCIENTIST:** A person who, by reason of special knowledge and experience, is qualified to practice soil science and who has been duly certified by

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the Board of Natural Scientists under RSA 310-A:75. (Added 1/14/97)

- F. COMPLETED APPLICATION:** The application form and supporting documents, as specified in these Regulations, that contain all the information the planning board needs to review a subdivision proposal and make an informed decision. All fees and administrative expenses, as indicated in these Regulations, must be included. For submission requirements, see Plat Submission Requirements, Design Standards, and Checklist. (Attachment 1) [Added, 1/14/97]
- G. DRAINAGE RIGHT-OF-WAY:** Land required for the installation of storm water sewers, drainage ditches, or required along a natural stream or watercourse for preserving the channel and providing for the flow of water to prevent flood damage and to preserve a natural environment. [Added: 3/9/82]
- H. DWELLING UNIT:** A structure which provides one (1) or more rooms arranged for the use of one (1) or more individuals living as a single housekeeping unit, with cooking, living, sanitary and sleeping facilities. The unit may be permanently or seasonally occupied. (Amended 1/14/97)
1. **DUPLEX:** A structure that houses two (2) separate dwelling units.
  2. **MULTI-FAMILY DWELLING:** A structure which houses three (3) to six (6) separate dwelling units.
- I. ENGINEER:** The Board of Selectmen of the Town of Albany or their appointed agent. This definition applies wherever "Engineer" is capitalized. [Added: 3/9/82]
- J. LICENSED LAND SURVEYOR:** A person who engages in the practice of land surveying and is licensed by the State of New Hampshire under RSA 310-A:53. (Added 1/14/97)
- K. LOT:** A parcel of land sufficient in size to meet the minimum requirements for a proposed use as permitted by the provisions of the Town of Albany Zoning Ordinance. (RSA 674:24, II) [Amended 1/14/97]
1. **COMMERCIAL LOT:** Any use of a parcel of land which involves, in whole or in part, the sale, processing or storing of merchandise or material, or, the sale of services, except as noted in the Zoning Ordinance.
  2. **LOT OF RECORD:** A distinct tract of land recorded in a legal deed, court decree, or subdivision plan filed in the Carroll County Registry of Deeds.
- L. MASTER PLAN:** The plan for development of the Town of Albany, New Hampshire, prepared in accordance with the provisions of RSA 674:2 and adopted under the provisions of RSA 674:4. (Adopted March, 1980, Updated 1990 and 2001) [Amended 1/14/97]

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- M. PERFORMANCE GUARANTEE:** Any acceptable form of financial security which may be accepted by the Board of Selectmen to ensure that the improvements proposed on the plat are completed. (Amended 1/14/97)
- N. PLAT:** The map, drawing or chart on which the plan of a subdivision is presented to the Albany Planning Board for approval, and which, if approved, will be submitted to the Carroll County Registry of Deeds for recording. (Amended 1/14/97)
- O. PREAPPLICATION REVIEW:** The two (2) optional steps, Conceptual Consultation and Design Review, that an applicant may follow prior to filing a completed application. (Added 1/14/97)
- P. ROAD:** The entire width of the right-of-way, including the land on either side of the road as covered by RSA 674:24, VII. This includes any highway, road, street, avenue, boulevard, lane, alley, viaduct, freeway, or any other ways, that are lawfully existing, and are maintained for vehicular travel. (RSA 672:13) [Amended 1/14/97]
- Q. SPECIAL FLOOD HAZARD AREA:** The land in the floodplain within the corporate boundaries of the Town of Albany, N.H. subject to a one percent (1 %) or greater possibility of flooding in any given year. This area is designated as Zone A and AE on the Flood Insurance Rate Map. [Added 3/13/95]
- R. 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, including without limitation of the foregoing lands subdivided by reason of construction of multi-dwelling units or time share arrangements howsoever devised in any type of dwelling unit. It includes re-subdivision and, when appropriate to the context, relates to the process of subdividing, or, to the land or territory subdivided. The division of a parcel of land held in common and subsequently divided into parts among several owners shall be deemed a subdivision under this title. (RSA 672:14) [Amended 1/14/97]
1. **SUBDIVISION, MAJOR:** Any subdivision of four (4) or more lots and/or which involves the creation of new streets. (Amended 1/14/97)
  2. **SUBDIVISION, MINOR:** Any subdivision containing not more than three (3) lots, fronting on an existing street, which does not require any new street or road or the extension of municipal facilities and which provides sufficient frontage and/or physical access to the remaining backland. A minor subdivision can involve the use of an existing private road and/or private right-of-way in accordance with the Town of Albany Zoning Ordinance. (Amended 1/14/97)
  3. **BOUNDARY (LOT) LINE ADJUSTMENT:** The exchange of abutting land among two (2) or more owners which does not increase the number of owners or the number of lots, and which does not create a non-conforming lot or add to the degree of non-conformity of existing lots. (Added 1/14/97)

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4. **LOT CONSOLIDATION:** A voluntary merger of 2 or more contiguous, pre-existing, approved or subdivided lots or parcels of land. (RSA 674:39-a) [Added 1/14/97]

**III. GENERAL PROVISIONS [RSA 674:35 & 36]**

- A. Before any subdivision of land is proposed, before any construction, land clearing, or building development is begun, before any permit for the erection of any building in such proposed subdivision shall be granted, or before the transfer or sale of any part thereof, and before any subdivision plat may be filed in the office of the Carroll County Registry of Deeds, the subdivider, or his authorized agent, shall apply in writing to the Board on a form provided by the Board and secure approval of such proposed subdivision in accordance with these regulations.
- B. Land of such character that it cannot be safely used for building purposes because of danger to health or peril from fire, flood, or other hazard, shall not be platted for residential occupancy, nor for any other use which would tend to increase the danger to health, life, or property, or aggravate the flood hazard, until, in the opinion of the Board, appropriate measures have been taken by the subdivider to eliminate such hazards or reduce them to reasonable risks. Land subject to periodic flooding (as determined by Federal Standards), to poor drainage or to other hazardous conditions shall not ordinarily be subdivided. Land with unsuitable soil or inadequate capacity for individual sanitary sewage disposal systems shall not be subdivided unless connected to a common sewer system.
- C. Due regard should be shown for all natural features, such as trees, water courses, scenic points, historic spots, and similar community assets.
- D. The following control measures shall be employed by the developer for an effective erosion and sediment control plan:
  - 1. The development plan should be fitted to the topography and soils so as to create the least erosion potential.
  - 2. Whenever feasible, natural vegetation shall be retained and protected.
  - 3. Natural drainage ways shall be utilized and left open to remove excess surface water.
- E. The Board may provide against such scattered or premature subdivision of land as would involve danger or injury to health, safety, or prosperity by reason of the lack of water supply, drainage, transportation, schools, fire protection, or other public services, or necessitate the excessive expenditure of protection, or other public services or necessitate the excessive expenditure of public funds for the supply of such services. (RSA 674:36 II (a) [Added 1/14/97])

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**F. SPECIAL FLOOD HAZARD AREAS** (Amended 1/14/97, Revised 3/13/12)

For subdivisions and site plans that involve land designated as "Special Flood Hazard Areas" (SFHA) by the National Flood Insurance Program (NFIP):

A. 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.

B. The Planning Board shall require that all proposals for development greater than 50 lots or 5 acres, whichever is the lesser, include Base Flood Elevation (BFE) data within such proposals (i.e. floodplain boundary and 100-year flood elevation).

C. The Planning Board shall require the applicant to submit sufficient evidence (construction drawings, grading and land treatment plans) so as to allow a determination that:

- (i) all such proposals are consistent with the need to minimize flood damage;
- (ii) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and,
- (iii) adequate drainage is provided so as to reduce exposure to flood hazards.

G. The Board may require special Investigative studies, environmental assessments, a legal view of documents, administrative expenses and other matters necessary to make an informed decision. The Applicant, prior to final approval of the Plat, shall pay the cost of such studies and investigations.

H. The recording of plats, which have been approved herein, shall, without further action, modify the Official Map of the Town of Albany in accordance therewith. Recording of an approved subdivision plat shall not constitute acceptance by the Town of any street, easement or open space shown thereon.

- 1. No street or open space will be accepted by the Town of Albany until such time as all improvements have been carried out as shown on the Final Plat, in accordance with the requirements of these regulations, and subject to any conditions established by the Board at the time of final approval of the Plat.

**IV. SUBDIVISION PROCEDURES**

**A. PREAPPLICATION PHASES (OPTIONAL)** [RSA 676:4, II, a] (Added 1/14/97)

**1. Conceptual Consultation**

An applicant may appear at a regular meeting of the Board to discuss a proposal in conceptual form and general terms. Such preliminary consultation shall be informal and directed toward:

- a. Reviewing the basic concepts of the proposal.
- b. Reviewing the proposal with regard to the Town's Master Plan and Zoning Ordinance.

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- c. Explaining the local regulations that may apply to the proposal.
- d. Determining whether the proposal is a major or minor subdivision.
- e. Guiding the applicant relative to state and local requirements.
- f. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action eventually taken on the application.
- g. The Board shall not accept any submissions by the Applicant at this time.

A Preliminary Conceptual Consultation shall not bind the applicant or the Board. Such discussion may occur without formal public notice but must occur only at a posted meeting of the Board.

**2. Design Review Phase [RSA 676:4, II (b)]**

- a. Prior to submission of an application for Board action, an applicant may request to meet with the Board or its designee for non-binding discussions beyond the conceptual and general, involving more specific design and engineering details of the potential application.
- b. The design review phase may proceed only after identification and notice to abutters and the general public as required by RSA 676:4, I(d).
- c. Persons wishing to engage in pre-application design review, shall file a "Request for a Pre-application Review" (Attachment 2) and associated fees not less than twenty (20) days before the regularly scheduled meeting of the Board. The request shall include:
  - (1) A list of abutters and their addresses from municipal records not more than five (5) days before filing the application with the secretary and
  - (2) A check to cover mailing and advertising costs.
- d. Statements made by Board members shall not be the basis for disqualifying said members or invalidating any action eventually taken on the application.
- e. The Board shall not accept any submissions by the Applicant at this time.

**3. The Applicant may consult with the Board to determine if the proposal is a Minor Subdivision. If so, the Applicant shall submit a Completed Application as required in the Completed Application Section.**

- a. Notice of submission shall be given and may be combined with the notice of public hearing.
- b. The Completed Application under this section may be submitted and approved at one or more Board meetings, but no application shall be approved without the full notice of abutters and public.

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**B. COMPLETED APPLICATION (REQUIRED)**

1. A completed application sufficient to invoke jurisdiction of the Board shall be filed with the secretary at least twenty (20) days prior to the public meeting of the Board at which it is to be submitted.
2. A completed application shall consist of all data required in Plat Submission Requirements and Design Standards.
3. The completed application shall include all required fees for notices and any administrative or other fees assessed by the Board under the provisions of RSA 676:4, I (g).
4. An application that has been determined to be complete shall be submitted to and accepted by the Board only at a regular meeting after due notification has been given as required by RSA 676:4, I (d).
5. Acceptance will be by affirmative vote of a majority of the Board members present.
6. When a Completed Application has been accepted by the Board, the Board shall provide a receipt to the applicant indicating the date of acceptance which is the start of the ninety 90 day review period.
7. An incomplete Application filed by an Applicant will not be submitted to the Board. Notices will not be issued.
8. Applications shall be disapproved by the Board without public hearing on the grounds of failure of the applicant to supply information or to pay fees as required by these regulations.

**C. BOARD ACTION ON COMPLETED APPLICATIONS (RSA 676:4) [Amended 1/14/971]**

1. The Board shall begin consideration of the Completed Application within thirty (30) days of its submission.
2. The Board shall act to approve, conditionally approve, or disapprove the Completed Application within sixty-five (65) days of submission (Revised 5/12/10).
3. The Board may apply to the Board of Selectmen for an extension not to exceed an additional ninety (90) days before acting to approve, conditionally approve, or disapprove an application. An applicant may waive the requirement for Board action within the time periods specified by these regulations and consent to such extension as may be mutually agreeable. [RSA 676:4, I (f)]
4. Approval of the Plat shall be certified by written endorsement on the plat and signed and dated by the Chairman of the Board and Secretary. The Secretary shall

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transmit a copy of the Plat with such approval endorsed in writing thereon to the Carroll County Registry of Deeds. The Subdivider shall be responsible for the payment of all recording fees.

5. If any submitted Plat is disapproved, the grounds for such disapproval shall be adequately stated in the records of the Planning Board and in a written notice given to the Applicant.

6. If the Planning Board has not taken action on the Completed Application within sixty-five (65) days of its submission and has not obtained an extension from the Board of Selectmen, the applicant may obtain from the Board of Selectmen an order directing the Board to act within fifteen (15) days. Failure of the Board to act on the order shall constitute grounds for the Applicant to petition the Superior Court as provided in RSA 676:4, I (c) (Revised 5/12/10).

**D. CONDITIONAL APPROVAL**

The Board may grant conditional approval of an application, but the plat will not be signed or recorded until all of the conditions have been met. A further public hearing is not required when such conditions:

1. Are administrative in nature,
2. Involve no discretionary judgment on the part of the Board, or
3. Involve the applicant's possession of permits and approvals granted by other boards or agencies, such as the Department of Transportation, the Wetlands Board, or Water Supply and Pollution Control Division.

A further public hearing will be required to demonstrate compliance with the terms of all other conditions pursuant to RSA 676:4, I(i).

**E. PUBLIC HEARING**

Prior to the approval of a subdivision, a public hearing shall be held as required by RSA 676:4, I (d) with notice given to the applicant, abutters, every engineer, architect, land surveyor, or soil scientist whose professional seal appears on any plat submitted to the board, and the public. (Amended 1/14/97)

**F. NOTICES**

1. Notice of design review phase or submission of a Completed Application shall be given to the abutters, the applicant, abutters, and every engineer, abutters, the applicant and every engineer, architect, land surveyor or soil scientist whose professional seal appears on any plat submitted to the Board by certified mail, mailed at least ten (10) days prior to the submission. (Amended 1/14/97)

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2. The public will be given notice at the same time by posting at the Albany Town Hall and the local Post Office and publication in a local newspaper of general circulation.
3. The notice shall give the date, time and place of the Planning Board meeting at which the Application or other item(s) will be formally submitted to the Board. It shall also include a general description of the proposal which is to be considered, and shall identify the Applicant and the location of the proposal.
4. If the notice for the public hearing was included in the notice of submission or any prior notice, additional notice of the public hearing is not required. Additional notice is not required of an adjourned session of a hearing provided that the date, time, and place of the adjourned session was made known at the prior meeting.

**G. FEES (Amended 1/14/97)**

1. Major Subdivision
  - a. Application fee of \$25.00
  - b. Notification fees to reflect postal rates at time of application
  - c. Public Notice to reflect newspaper publication rates at time of application
  - d. Recording fee to reflect Carroll County Registry of Deeds rate, based on size of plat, at time of application.
2. Minor Subdivision
  - a. Application fee of \$15.00
  - b. Notification fees to reflect postal rates at time of application
  - c. Public Notice to reflect newspaper publication rates at time of application
  - d. Recording fee to reflect Carroll County Registry of Deeds rate, based on size of plat, at time of application.
3. Boundary Line Adjustments
  - a. Application fee of \$15.00
  - b. Notification fees to reflect postal rates at time of application
  - c. Public Notice to reflect newspaper publication rates at time of application
  - d. Recording fee to reflect Carroll County Registry of Deeds rates, based on size of plat, at time of application.
4. All costs of notices, whether mailed, posted, or published, shall be paid in advance by the Applicant. Failure to pay costs shall constitute valid grounds for the Board to terminate further consideration of the application and to disapprove the Plat without a public hearing.
5. Pursuant to RSA 676:4, I (g) it shall be the responsibility of the Applicant, if the Board deems it necessary, to pay reasonable fees for special investigative studies, environmental assessments, legal review of documents, administrative expenses and other matters which may be required to make an informed decision on a particular application.

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**V. PLAT SUBMISSION REQUIREMENTS (COMPLETED APPLICATION) (Amended 1/14/97)**

Six (6) copies of the Plat shall be submitted for Board review. Four (4) copies (24" x 36") of the Final Plat, including all revisions, shall be submitted for recording: one (1) for the Carroll County Registry of Deeds, one (1) for the tax assessor, one (1) for Planning Board files, and one (1) to be returned to the applicant as approval documentation. Space shall be reserved on the plat for all necessary endorsements.

The Plat shall be prepared and certified by a land surveyor registered in the State of New Hampshire. The plat shall show or be accompanied by:

- A. The names and addresses of all abutters, as shown in town records not more than five (5) days before the day of filing.
- B. Payment to cover filing fees, mailing, advertising, recording, and other costs as per the Fees Section of these Regulations.
- C. Additional studies or reports, as may be required by the Board, including but not limited to: traffic, school, fiscal and environmental impact analyses, to allow the Board to make an informed decision concerning the proposal.
- D. Plats shall include the following information:

**1. Conceptual Consultation:**

- a. Site location map
- b. Tax Map and Parcel numbers
- c. Name and address of owner of record
- d. Scale: appropriate to the detail shown
- e. Zoning Classification

**2. Boundary Line Adjustments & Lot Consolidations**

- a. Names and addresses of all owners of all lots involved;
- b. Tax Map and Parcel Numbers;
- c. Names and addresses of all abutters
- d. Existing and proposed boundary lines clearly indicated;
- e. Existing and proposed lot acreages;
- f. Zoning boundaries and improvement locations or a certified statement by the surveyor that all improvements conform to the Town of Albany Zoning Ordinance.
- g. North reference
- h. Names and addresses of consultants used

**3. Minor Subdivisions**

- a. Name and address of the Applicant and of the owner, if other than the applicant;
- b. Tax Map and Parcel Number;
- c. Names and addresses of all abutters;
- d. Tract boundary lines including bearings and distances and location of permanent

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- markers and, street right-of-way lines and existing street names;
- e. Easements and rights-of-way of record;
- f. Proposed new lot lines;
- g. Water courses and other natural features;
- h. Soil types and slopes;
- i. Zoning district boundaries;
- j. Location of the proposed subdivision on a key map at the Town Tax Map scale of one (1) inch equals four hundred (400) feet showing the relation of the proposed subdivision to existing streets;
- k. Existing topographic contour boundaries as follows: (1) Slopes 0% to 25% (5) foot intervals with spot elevations; (2) Slopes of 26% to 50% - ten (10) foot intervals; and (3) Slopes over 50% - twenty (20) foot intervals
- l. Graphic scale and North reference;

**4. Major Subdivisions**

- a. Name and address of the Applicant and of the owner, if other than the applicant;
- b. Tax Map and Parcel Number;
- c. Names and addresses of all abutters,
- d. Tract boundary lines including bearings and distances and location of permanent markers and, street right-of-way lines and existing street names;
- e. Easements and rights-of-way of record;
- f. Proposed new lot lines;
- g. Water courses and other natural features;
- h. Soil types and slopes;
- i. Zoning district boundaries;
- j. Location of the proposed subdivision on a key map at the Town Tax Map scale of one (1) inch equals four hundred (400) feet showing the relation of the proposed subdivision to existing streets;
- k. Existing topographic contour boundaries as follows:
  - (1) Slopes 0% to 25% (5) foot intervals with spot elevations;
  - (2) Slopes of 26% to 50% - ten (10) foot intervals; and
  - (3) Slopes over 50% - twenty (20) foot intervals
- l. Graphic scale and North reference;
- m. Location and description of all monuments.
- n. Notification that the Applicant is the agent for the owner or is the owner of the land, or that the owner has given consent under an option agreement.
- o. When approval of the plat is required by any officer or body of the municipality, county, or state, approval shall be certified on the plat in an appropriate space provided therefor on the plat.
- p. Plans and profiles approved by the Engineer, of all drainage structures, as well as sanitary sewers, water, gas, and underground electric layouts showing feasible connections to existing and proposed utility systems.
- q. At least one (1) bench mark shall be established on each section submission of a subdivision, tied into any previously established bench marks on any previously submitted plat. Said bench mark to be plainly marked in the field and stationed on the Final Plat with its elevation.
- r. Final State of New Hampshire approvals when appropriate from the Department of

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Public Works and Highways, the Special Board on Dredging and Filling, and the Water Supply and Pollution Control Commission shall be received before final approval is granted.

**5. Certifications**

All plats shall contain certifications from all surveyors, soils scientists, architects and/or engineers whose seals may appear on the plat as listed below or in a form equal to the certifications listed below. (Amended 1/14/97)

The following listed certifications shall be affixed to the Final Plat together with the appropriate signatures and seals (when available), prior to approval by the Planning Board:

- a. It is hereby certified that the lands subdivided on this plat are owned by title of record and that consent to the approval of said map is given.

Date \_\_\_\_\_ Corporate or individual name \_\_\_\_\_

- b. I hereby certify that this plat and survey has been made under my supervision. The date of the survey was \_\_\_\_\_ Licensed Land Surveyor.

- c. I certify that a bond has been given to the municipality guaranteeing the construction of all public facilities such as roads, drains, and monuments and other appurtenances as shown on this plat.

Date \_\_\_\_\_ Town \_\_\_\_\_

- d. This plat is hereby approved by the Albany Planning Board at an official meeting held on \_\_\_\_\_ and shall be filed on or before \_\_\_\_\_ with the Carroll County Registry of Deeds.

Date \_\_\_\_\_

\_\_\_\_\_  
Chairman, Albany Planning Board

\_\_\_\_\_  
Secretary Albany Planning Board

**VI. DESIGN STANDARDS**

**A. STREET IMPROVEMENTS**

The Albany Street Standards adopted July 18, 1989 are hereby incorporated by reference. The Albany Planning Board, pursuant to Section VIII.B, has the authority to grant waivers of those street standards (Revised 5/12/10).

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**B. WATER AND SEWER FACILITIES**

All wells and subsurface disposal facilities shall in all respects, comply with all applicable local, county and/or state requirements including those of the State Water Supply and Pollution Control Commission. (Amended 1/14/97)

**C. LOTS**

1. Each lot shall have a minimum size of two (2) acres for each dwelling unit that may be located thereon or such greater lot size as required by soil or topography conditions.
2. The lot size for all apartment houses, condominiums, cluster-type housing, or, one or more buildings having multi-dwelling units, shall require two (2) acres for the first two (2) units thereon and two (2) acres for each additional unit.
3. Insofar as is practical, side lot lines shall be at right angles to straight streets, and radial to curved streets.
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 suitability of a lot for its intended use due to the presence of such factors as rock formations, steep slopes, unusual surface configurations, tendency to periodic flooding, poor drainage, unsuitable soil or soils, and inadequate capacity for sanitary septage disposal, the Planning Board may, after adequate investigation, withhold approval of such lot or lots.
6. Lots shall be graded in such a manner so as to prevent collection of water at low points.

**D. EASEMENTS**

1. Easements for utilities across lots or centered on rear or side lot lines shall be provided where necessary. The width of these easements shall be based on the requirements of the various service agencies involved (power company, telephone company, etc.) with respect to the type of subdivision contemplated and the type of service provided (overhead, underground, etc.)
2. Where a subdivision is traversed by a watercourse, drainage way, channel, or stream, the Board may require that there be provided a storm water easement or drainage right-of-way of adequate width to conform substantially to the lines of such water courses, drainage ways, channels or streams, and provide for construction or other necessary purposes.

**VII. PERFORMANCE GUARANTEE (RSA 673:36,111) [Amended 1/14/97]**

As a condition of approval, the Planning Board shall require the posting of a performance guarantee in an amount sufficient to defray the costs of construction of streets, public

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improvements, drainage structures, the extension of water and sewer drains, storm drains, under drains and other improvements of a public utility nature. The amount of the security shall be based on an estimate of costs provided by the subdivider and, at the discretion of the Planning Board, reviewed by a licensed engineer. The costs of such review shall be paid by the Applicant.

- A. The security shall be approved as to form and sureties by the Board of Selectmen and/or Town Counsel.
- B. The amount of the security shall include fees to cover the cost of periodic inspections.
- C. Where electric lines or other utilities are to be installed by a corporation, municipal department, or public utility, a letter of intent shall be required stating that the work will be done within eighteen (18) months and without expense to the Town of Albany subject only to a written extension from the Board of Selectmen or Town Counsel.
- D. Each approved plat shall contain a time limit for the completion of streets and public improvements.
- E. The performance guarantee shall be released in phases as portions of the secured improvements or installations are completed and approved by the Board of Selectmen or its designee, in accordance with the plan approved by the Planning Board.
- F. All deeds covering land to be used for public purposes, easements and rights-of-way over property to remain in private ownership, and rights of drainage across private property are submitted in a form satisfactory to Town counsel.
- G. All recording fees shall be borne by the subdivider.

**VIII. ADMINISTRATION AND ENFORCEMENT**

- A. These regulations shall be administered by the Planning Board. The enforcement of these regulations is vested with the Board of Selectmen.

**B. WAIVERS**

The requirements of the foregoing regulations may be modified when, in the opinion of the Board, specific circumstances surrounding a subdivision, or condition of the land in such subdivision, indicate that such modifications will properly carry out the purpose and intent of the master plan and these regulations.

**C. PENALTIES AND FINES**

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Any violation of these regulations shall be subject to a civil fine as provided in RSA 676:16 and 676:17, as amended. The Selectmen are designated as the local authorities to institute appropriate action under the provisions of RSA 676:17.

**IX. CONFLICTING PROVISIONS**

Where these regulations are in conflict with other local, state or federal ordinances, the more stringent shall apply.

**X. VALIDITY**

If any section or part of a section or paragraph of these regulations shall be declared invalid or unconstitutional, it shall not be held to invalidate or impair validity, force, or effect of any other section or sections or part of a section or paragraph of these regulations.

**XI. AMENDMENTS**

These regulations may be amended or rescinded by the Planning Board following a public hearing, or hearings as necessary, on the proposed changes. Such changes shall not take effect until a copy of said change, certified by a majority of the Board, is filed with the municipal clerk.

A copy of any amendments to these regulations shall also be filed with the Office of State Planning in Concord, New Hampshire. (RSA 675:9)

**XII. APPEALS**

Any person aggrieved by any decision of the Planning Board concerning a plat or subdivision may present a petition, duly verified, to the Superior Court setting forth that such decision is illegal or unreasonable in whole or in part, specifying the grounds upon which the decision is claimed to be illegal or unreasonable. Such petition shall be presented to the Court within thirty (30) days after the decision of the Planning Board has been filed and first becomes available for public inspection in the office of the Planning Board. (RSA 677:15)