

**BRAINTREE**

**SUBDIVISION REGULATIONS**

**Approved by Australian Ballot**

**March 4, 2003**

Professional assistance to the Town of Braintree provided by the  
Two Rivers-Ottauquechee Regional Commission  
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# **ARTICLE I - AUTHORITY AND PURPOSES**

## **1.1 TITLE**

These Regulations shall be known as the Braintree Subdivision Regulations.

## **1.2 ENACTMENT AND AUTHORITY**

It is hereby declared to be the policy of the Town of Braintree to consider the subdivision of the land and the subsequent development of the subdivided plan as subject to the control of the Subdivision Regulations of the Town of Braintree, Vermont, as expressed herein, pursuant to the Vermont Planning and Development Act, 24 VSA, Chapter 117, herein after referred to as the "Act".

## **1.3 PURPOSE**

These Regulations are hereby adopted for the following purposes.

1. To ensure that development conforms to the policies set forth in the Braintree Town Plan. The Planning Commission shall refer to the goals, objectives, policies, recommendations, and data contained in the Town Plan in making decisions.
2. To ensure that all development is compatible with the ecology, topography, geology, natural drainage, surface water runoff, groundwater resources, agricultural resources, historical resources, and present, and potential uses of land identified in the maps and text of the Town Plan.
3. To ensure conformity and compatibility of development with other applicable laws, as presently enacted or as from time to time hereinafter enacted, including but not limited to: Zoning Ordinance, Health Ordinance, and Capital Program.
4. To protect and provide for the health, safety, and general welfare of the Town of Braintree, its property owners and its inhabitants.
5. To guide the future growth and orderly development of the Town.
6. To provide the most beneficial relationship between uses of land and buildings and the safe and convenient movement of pedestrian and vehicular traffic.
7. To provide for the conservation and protection of the natural, visual, and historical assets of the Town: the preservation of the existing rural character of the Town through the proper arrangement of uses on development parcels: the preservation of adequate open space between developments: and the preservation of land values and an adequate tax base.
8. To ensure that the development employs efficient and economic uses of energy which are consistent with the current technology.
9. To ensure that adequate facilities and services, such as parks and open spaces, recreation areas, schools, police and fire protection, off street parking, and water supply and sewage disposal, are provided.

10. To control the rate of growth in Braintree in order to ensure that existing public services and facilities are available and will have a sufficient capacity to serve any proposed subdivision.

#### **1.4 SUBDIVISION WAIVERS**

In the case of a subdivision, the Planning Commission may waive or vary, subject to the appropriate conditions, the provisions of any or all applications or review procedures, submittal and development requirements, as in its judgment of the special circumstances of a particular plan, are not requisite in the interest of public health, safety and general welfare, nor required by the Act. The request for a waiver shall be made by the applicant. It shall be the responsibility of the applicant to provide sufficient information to justify the waiver and enable the Planning Commission to reach a decision. In such a case, the Planning Commission may, following the discussion meeting referenced in Article 2.2, move to waive some or all of those requirements reference above.

#### **1.5 SUBDIVISION APPLICATION PROCEDURE SYNOPSIS**

##### **Subdivision Application Procedures:**

- Discussion Phases: Preliminary Meeting with the Planning Commission.
- Within six (6) months after the Preliminary Meeting: Final plan submittal.
- Within forty-five (45) days after final plan submittal: A public hearing, conducted by the Planning Commission.
- Within forty-five (45) days after the public hearing: Action taken by Planning Commission to disapprove, approve with conditions, or approve final plan.
- Within ninety (90) days after approval with Town Clerk: Plan recording.
- On completion: Submission of "as-built" drawings, if applicable.

# **ARTICLE II - SUBDIVISION APPLICATION PROCEDURE**

## **2.1 GENERAL**

Whenever any subdivision of land is proposed, before any construction, land clearing, or building development is begun thereon, before any contract for sale for all or any part of the land or structures involved, before any permit for the erection of any building in such proposed subdivision shall be granted, and before any subdivision plan may be filed with the Town Clerk, the subdivider or his/her authorized agent shall apply for and secure final approval of such proposed subdivision in accordance with the procedures outlined below.

## **2.2 DISCUSSION PHASE**

### **2.2.1 Preliminary Meeting**

The applicant shall request, by dated letter, a meeting with the Planning Commission to discuss the proposed subdivision at least fifteen (15) days prior to the meeting. The applicant shall submit ten (10) copies of the following information.

1. Name and address of the landowner and/or applicant, names of all adjacent property owners, and name of the project.
2. A sketch plan showing areas that are wooded, open, wet, or steeply sloped, showing the proposed layout of streets, lots, and other features the project boundaries, adjacent land uses, and a map showing the general location of the property on the Braintree tax map with the four Vermont Coordinate Systems coordinates nearest the parcels boundaries, at a 1:5000 scale. Copies of Orthophoto maps are available for review at the Town Offices or from the State of Vermont Mapping Program (802.241.3597).
3. A written description of the proposed development plans, including the number and size of the lots, and general timing of construction.
4. A written description of proposed water supply and sewage disposal systems to serve the subdivision.
5. The Planning Commission may require additional information before recommending that the applicant proceed with the application.

### **2.2.2 Action by the Planning Commission**

The Planning Commission shall review the sketch plan and other information required to be presented at the Preliminary Meeting to determine whether or not it is, or would be, in conflict with, the Town Plan, Zoning Regulations, Capital Budget and Program, or other applicable Town regulations.

The Planning Commission shall determine whether the project meets the purposes of these Regulations and may make specific written recommendations for changes. Where the applicant submits a proposal for a Planned Unit Development, the Planning Commission shall simultaneously review the application under the criteria established in both these Regulations and the Town of Braintree Zoning Ordinance. The Planning Commission shall provide in writing a summary of its review to the applicant(s) within ten (10) days following the conclusion of its Preliminary Meeting.

Affirmative action or comments with respect to the proposed sketch plan shall not be construed as approval of a subdivision plan. The Planning Commission reserves the right to make or require revisions as a result of further information or study.

## **2.3 SUBDIVISION APPLICATION PROCEDURES**

### **2.3.1 Final Plan Submittal**

Within six (6) months from the conclusion of the Preliminary Meeting with the Planning Commission, the applicant(s) shall submit an application for approval of a subdivision plan to the Secretary of the Planning Commission according to the requirements set forth in Article 3.1 of these Regulations. The plan shall be reasonably consistent with the layout presented to the Planning Commission at the Preliminary Meeting, and reflect any recommendations made by the Planning Commission.

### **2.3.2 Final Plan Hearing**

A public hearing shall be held after receipt of the Final Subdivision Plan application, said hearing to be publicly warned at least fifteen (15) days in advance of the hearing date. Any public hearing shall be noticed in accordance with Section 4447 of the Act.

### **2.3.3 Final Plan Approval**

The Planning Commission shall, within forty-five (45) days from adjournment of Final Plan Hearing, act to approve, modify, or disapprove the Final Subdivision Plan and notify the applicant accordingly in writing. Failure to act within a forty-five (45) day period shall be deemed approval.

### **2.3.4 Phasing**

At the time the Planning Commission grants Final Subdivision Plan approval, it may require the project to be divided into two (2) or more phases to ensure conformity with the Town Plan and Capital Program, if one is in effect, and may impose such conditions upon the filing of application for final plan approval for each phase as it deems necessary to assure the orderly development of the plan and to avoid overburdening Town facilities and services.

### **2.3.5 Plan Recording**

All subdivisions must be recorded by the applicant in the office of the Town Clerk within ninety (90) days of the date of the final plan approval or the approval expires. Prior to recording, the plan must be signed by two (2) authorized members of the Planning Commission.

For any subdivision which requires the construction of roads or other public improvements by the applicant, the authorized members of the Planning Commission may not sign the approved plan until the subdivider has:

1. Met the requirements, if any, of Article 5.7, Performance Bond Requirements, of these Regulations; or

2. Constructed all public improvements to the satisfaction of the Planning Commission and Selectboard, public improvements to be maintained to Town standards until taken over by the Town or a private association.

Two (2) copies of the approved Final Subdivision Plan shall be filed with the Town Clerk. The Final Subdivision Plan to be recorded shall be of a size determined by the Planning Commission and be consistent with State recording requirements (27 VSA, Sections 1401-1406).

Failure to record an approved plan with the Town Clerk within the prescribed period noted above shall render the approval null and void.

## ARTICLE III - SUBMISSION REQUIREMENTS

### 3.1 FINAL PLAN SUBMITTAL

The Final Subdivision Plan shall consist of the following maps and information. The submittal shall be made in three (3) copies. Maps shall be at a scale of 100 feet per inch or less:

1. A completed Subdivision Permit Application form. Blank forms are obtainable from the Town Clerk.
2. All information submitted for the discussion phase or revisions thereto.
3. The provisions of the Zoning Ordinance that are applicable to the area to be subdivided and any zoning district boundaries affecting the tract.
4. A sketch plan of the boundaries of the subdivision parcels showing the date, true north point, scale, owners name, and name of draftsperson.
5. Description of the proposed water supply. If source is an existing community water supply, evidence of the right to use such system and the adequacy of such a system to meet water supply requirements shall be shown. All design criteria shall be in accordance with the applicable State and local health regulations.
6. Description of the proposed sewage systems. If onsite sewage disposal is proposed, then a registered professional engineer's or certified site technician's report and plans prepared in conformance with the State and local health regulations shall be submitted. If a community sewage disposal system is to be used, evidence of the right to use such a system and a registered professional engineer's statement of the adequacy of the system to handle the additional sewage shall be submitted.
7. All existing and proposed right-of-way lines, widths of roads, typical road profiles, dimensions of all lot lines and size of all lots, locations of all buildings, walkways, amenities, utilities, location of open space and/or recreation areas, and other manmade improvements.
8. A description of any proposed covenants, and/or deed restrictions which are intended to cover all or part of the subdivision.
9. A description of the homeowners association or other forms of management organization of one is proposed.
10. In the event of granting of easements, and/or development rights to the Town of Braintree, a written acknowledgment of the subdivider's responsibility for maintenance of easement areas until such land has been legally accepted by the Town.
11. Written evidence of approval by local, regional, State, and Federal agencies having jurisdiction over the project, including final approvals for any water supply and sewage disposal systems.
12. Written statement outlining appropriate dates in which all improvements shall be completed. (See Article 5.2.)

# ARTICLE IV - PLANNING AND DESIGN STANDARDS

## 4.1 GENERAL PLANNING STANDARDS

The Planning Commission shall authorize the creation of lots, and the siting of structures and improvements on those lots in accordance with the following planning standards. Through the use of these standards, the Planning Commission will seek to implement the Town Plan. The Town Plan is designed to reinforce two (2) principal factors: the historical, rural character of Braintree and the natural beauty of its mountain settings. These factors will be strongly influenced by future patterns of land subdivision and development siting. Accordingly, the Planning Commission shall consider the Town's special features, landscape patterns, natural resources, and the relationship of land use and road access in rendering its decisions. The Planning Commission recommends that applicants for subdivision view the Randall Arendt video on Cluster Housing, available from the Planning Commission.

### 4.1.1 Character of the Land

All land to be subdivided shall be, in the judgment of the Planning Commission, of such a character that it can be used for the intended purposes without danger to public health or safety, to the environment or to critical resources, as identified in the Town Plan. Land designated as flood hazard areas, or characterized by poor drainage or steep sloped, or subject to other hazardous conditions, shall not ordinarily be subdivided.

### 4.1.2 Lot Layout/Setting

The layout of lots and the siting of structures shall conform to the requirements of the Zoning Ordinance and shall be appropriate for the intended construction. Consideration in lot layout and siting shall be given to aesthetic, topographic, and soil conditions.

### 4.1.3 Preservation of Existing Features

Due regard shall be given to the preservation and protection of existing features such as, but not limited to trees, scenic points and roads, brooks, streams, rock outcroppings, water bodies, forest resources, prime agricultural soils, and open meadowland. Specifically, those areas included in the Special Features Overlay of the Braintree Zoning Ordinance map shall be treated as follows:

**Wetlands:** Wetlands identified in the overlay shall not be drained, filled, or altered to accommodate subdivision. Proposals for the subdivision of a lot involving, or adjacent to, an identified wetland shall provide for adequate setbacks of roads, buildings, structures, and sewage systems from the wetland. Adequate setbacks shall be no less than 100 feet, but may be increased by the Planning Commission accordingly to protect the following wetland values:

- water quality control
- groundwater supply
- flood or erosion
- flora or fauna
- education and recreation

This provision shall not apply to the uses of such areas for the growing of food or crops in connection with farming activities.

**Deeryard:** Subdivision immediately adjacent to a deeryard identified on the overlay shall be designed, sited, and undertaken in a manner compatible with the continued viability of the deeryard. Subdivision within a deeryard boundary shall be permitted only where the Planning Commission makes the following findings:

- The parcel to be subdivided includes no land that is practical for subdivision except that which is deeryard.
- The subdivision can be designed and undertaken in a manner that minimizes the impact of the subdivision on the continued viability of the deeryard.

Proposals for subdivision of a lot involving, or adjacent to, an identified deeryard shall be based upon consultation with representatives of Vermont Department of Fish and Wildlife and shall provide evidence of such consultation.

Where subdivision takes place within a deeryard, or includes part of or all of a deeryard, in the land base for the subdivision or the determination of its density, the remainder of the deeryard owned by the applicant shall be managed in a manner compatible with the continued viability of the deeryard. This may include the preparation and implementation of a forest management plan approved by the Vermont Fish and Wildlife.

**Randolph Aquifer Recharge Areas:** Subdivision in an Aquifer Recharge Area may not result in the pollution of ground or surface waters or an unreasonable reduction of the supply of groundwater. The Planning Commission shall consider such factors as the amount and type of wastes to be generated by the proposed use and the adequacy of the proposed disposal system and the capability of the land and water to sustain such use without degradation. In considering an application the Planning Commission may consult with the Vermont Department of Water Resources for assistance or require certification by a registered professional engineer that the project will not result in degradation.

**Meadowlands:** Subdivision of meadowlands may be permitted only where the Planning Commission makes the following findings:

The Subdivision

- minimizes the disruption of the scenic quality of the site, retains the maximum possible meadowland for agricultural use through such means as clustering under Planned Unit Development provisions, reduction in allowable density sale or donation of development rights; and
- maximizes the use of the least productive land and the protection of primary agricultural soils.
- The subdivision will not conflict with existing agricultural uses in the area.

#### **4.1.4 Energy Conservation**

Energy efficient site planning and layout shall be encouraged in the review of a proposed subdivision.

### **4.2. ROADS**

#### **4.2.1 Layout**

All roadways and intersections shall be designed to ensure the safe and efficient movement of vehicles. Roads shall be logically related to the topography so as to produce useable lots and reasonable road grades. Wherever extensions of proposed roads could rationally provide public access to adjacent properties or connection to existing public, State, or Town Highways, a right of way across the subdivider's property may be required.

#### **4.2.2 Traffic Management**

If, in the judgment of the Planning Commission, a proposed subdivision presents the potential for significant traffic impact on Town or State roads, Village centers, or historic areas, a traffic impact study may be required. The purpose of such a study shall be to identify the traffic impact potential of a proposed subdivision and to identify necessary and appropriate mitigating measures. When warranted, such studies shall be funded by the applicant and prepared by a qualified registered professional engineer, who shall be selected jointly by the applicant and the Planning Commission. Such studies include:

1. A description of the general location of the project.
2. A statement of existing traffic conditions and projected traffic conditions in five (5) years.
3. A statement comparing the operating Level of Service of the roadway(s) and/or intersection(s) in the Town with and without the proposed project(s) at the opening date of the project and in five (5) years.
4. A statement of recommendations outlining any adverse traffic impact of a proposed subdivision and the necessary improvements to provide an acceptable operating Level of Service.

Based upon a review of the study, the Planning Commission shall set appropriate conditions to avoid or mitigate any traffic congestion or safety problems associated with the proposed subdivision.

#### **4.2.3 Location and Design of Intersections**

Intersections with existing roadways shall be as close as 90 degrees as possible. Approaches to intersections with existing roads shall be at a maximum grade of 3% for a distance of 100 feet from the edge of the travel lane. Intersections shall be located so as to provide a minimum sight stopping distance in accordance with the following standards:

#### 4.2.4 Minimum Stopping Sight Distances

Design Speed of Roadway Section (MPH)	Sight Stopping Distance (Feet)
20	104
25	143
30	176
35	223
40	263
50	369

The Planning Commission may restrict the frequency of access or impose special intersections design requirements along any Town highway.

#### 4.2.5 Design Standards for Rural Roads

All roads must comply with A-76 State of Vermont Design Standards as adopted by the Selectboard.

#### 4.2.6 Dead End Roads

All dead end roads in excess of 800 feet in length shall terminate in a turn-around having a minimum inside radius of 30 feet and a travel lane width of 20 feet, unless otherwise required for emergency vehicle access.

#### 4.2.7 Road Maintenance

The maintenance of all roads not designated as Class 3 Town Highways or higher shall be the responsibility of the applicant. The applicant shall supply evidence and assurance that said roads will be adequately maintained either by him/herself or by an owner's association.

#### 4.2.8 Curb Cuts on Existing Roads for Subdivisions

The total number of curb cuts permitted shall not exceed one (1) for each side of the road for each 500 feet of a continuous length of road frontage of a parcel. This regulation will not apply to farm access roads for agricultural or temporary forestry purposes. In calculating the number of curb cuts permitted, any curb cut in existence prior to this subdivision shall be included. Subsequent subdivision shall not create a right to construct any curb cuts in addition to those permitted above.

### 4.3 PARKING

Parking requirements shall be as established in the Town of Braintree Zoning Ordinance. However, the Planning Commission may require additional parking if, in its judgment, more parking is needed to accommodate the proposed development.

#### **4.4 PEDESTRIAN ACCESS**

The Planning Commission may require a right-of-way to facilitate pedestrian circulation within the subdivision and to ensure public access through the property to adjoining properties or uses.

#### **4.5 POWER AND TELEPHONE**

The Planning Commission may require the installation of underground power and telephone lines wherever it is appropriate to maintain and protect the visual character of an area or to maintain property values of adjacent property. A diagram showing location of utility lines shall be submitted with the as-built drawings (see Article 5.3).

#### **4.6 DRAINAGE AND EROSION CONTROL**

The Planning Commission may require such temporary and permanent drainage and erosion control techniques as may be necessary to control surface runoff. Factors to be considered in determining the types of control necessary shall include vegetation and ground cover, slopes, soil types, percentage of land covered by permeable surfaces, distances to streams, and impact to adjacent properties.

The Planning Commission may require the phasing of construction to reduce the amount of land disturbed by construction at any one time, and may stipulate deadlines for installation of erosion control or soil stabilization measures.

For purposes of calculating the amount of surface runoff, a minimum of a "25 year storm precipitation factor" shall be used.

The Planning Commission may request determination of the effect of the subdivision on the existing downstream drainage capacity outside of the area of the subdivision. Where the Planning Commission anticipates that the increased runoff will overload the capacity of the downstream system, it may request the applicant to delay construction until the capacities are adequate, and may request the applicant to assist in the capacity improvements deemed necessary.

#### **4.7 FIRE PROTECTION**

The Planning Commission may require the provision of facilities necessary for adequate fire protection. Such facilities shall be designed in consultation with the Randolph Fire Department.

#### **4.8 LIGHTING**

The Planning Commission may require adequate lighting to protect the safety of pedestrians and motorists.

The Planning Commission may prohibit lighting that illuminates other properties or produces a glare or visual disturbance.

#### **4.9 SIGNS**

The Planning Commission may place more restrictive conditions regarding the size, height location, and number of signs than those specified in the Zoning Ordinance or by State

regulations in order to maintain the visual character of the area and to ensure the safety and efficiency of pedestrian and vehicular circulation.

#### **4.10 PROVISION OF BUFFER AREAS**

The Planning Commission may require greater setbacks from property boundaries than specified in the Zoning Ordinance in order to create buffer zones. Conditions for requiring buffer areas may include, but not be limited to, lack of dense vegetation, proximity to scenic highways, heightened visibility due to differences in elevation, concentration of uses on the site as permitted by Planned Unit Development and cluster provisions of the Zoning Ordinance, and incompatibility of adjacent uses or other aesthetic considerations. The Planning Commission may request that the subdivider coordinate buffer zones on his parcel with buffer areas on adjoining parcels in order to provide a continuous system of greenbelts.

#### **4.11 SITE PRESERVATION AND IMPROVEMENT**

##### **4.11.1 Natural Cover**

Land shall be subdivided and improved in reasonable conformity to existing topography in order to minimize grading, cut and fill, and to retain, insofar as possible, the natural contours, limit storm water runoff, and conserve the natural cover and soil.

##### **4.11.2 Shade Trees**

The Planning Commission may require that suitable hardwood shade trees be established in areas where trees do not exist. The Planning Commission shall determine the minimum acceptable size of trees.

##### **4.11.3 Excavation and Grading**

The Planning Commission may require a program of landscaping, soil stabilization, and the establishment of appropriate, permanent vegetative cover following excavation or grading. The Planning Commission may also require embankments to be planted with a stabilizing shrub or ground cover to prevent erosion.

#### **4.12 DISCLOSURE OF SUBSEQUENT DEVELOPMENT PLANS**

Whenever a applicant submits a proposal for development on only a portion of contiguous parcel, the Planning Commission will require a general indication of the intended uses of the remaining portion of land. Such an indication should include access, type of use, intensity of use, and phasing.

## **ARTICLE V - GENERAL CONDITIONS**

### **5.1 FEES**

Upon submission of an application for subdivision approval, the applicant shall pay the application fee as established by the Board of Selectboard.

### **5.2 COMPLETION DATE**

Each approval for Final Subdivision Plan shall contain a time limit within which all improvements shall be completed not to exceed three (3) years unless extended by the Planning Commission.

### **5.3 COMPLETED SUBDIVISION PLAN**

Submittal of an "as built" plan may be required prior to the use or occupancy of a subdivision. This plan shall be drawn to scale and shall indicate by dimensions, angles, distances, and locations of all utilities, structures, roadways, easements, and other improvements as constructed. "As-built" plans shall be submitted by the applicant to the Zoning Administrator as original ink drawings on mylar, 18"x24" size. Plans must be signed by a registered surveyor licensed in the State of Vermont.

### **5.4 REVISION OF APPROVED PLAN**

No changes, modifications, or revisions that alter the conditions attached to a Subdivision Permit shall be made unless the plan is first resubmitted to the Planning Commission and the Planning Commission approves such modifications after public hearing, if the Planning Commission requires a hearing.

In the event that such subdivision plan is recorded without complying with this requirement, the plan and all approvals shall be considered null and void.

### **5.5 PUBLIC ACCEPTANCE OF ROADS AND OPEN SPACES**

Nothing in these Regulations shall be construed to constitute the acceptance by the municipality of any road, easement, utilities, park, recreation area, or other open space shown on the Final Subdivision Plan. The Planning Commission may require the filing of a written agreement between the applicant and the Selectboard covering future deed and title, dedication and provisions for the cost of grading development, equipment and maintenance of any such improvements, or may require of an applicant an agreement to waive the future rights to petition to the Town to have roadways within the subdivision accepted as public roads. The Planning Commission may require the filing of a written agreement between the applicant and the Selectboard waiving any existing or future claim by the applicant and/or his/her heirs, successors and assignees regarding the Town's obligation to accept any road or other improvement as a Town facility as shown on the Final Subdivision Plan and providing for the future of grading, development, equipment, repair, and maintenance of any such road or other improvement by the applicant and/or his/her heirs, successors and assignees.

Consistent with the objectives of the Town Plan, and in accordance with 10 VSA, Section 6301, the Town may accept less than fee interest in property to protect its open, scenic, or resource

value. Donation of such a conservation easement or development rights to a qualified non-profit organization or the Town of Braintree may also serve as means of meeting Town Plan objectives. In either case, written agreements between the parties shall be required.

## **5.6 COMPLIANCE WITH OTHER BYLAWS**

Nothing in these Regulations shall be so construed as to supersede the conditions and criteria for permit approval set forth in other bylaws or ordinances in effect. This includes, but is not limited to, conditional use criteria and Planned Unit Development requirements set forth in the Zoning Ordinance, and water and sewer requirements stipulated in an adopted Health Ordinance.

## **5.7 PERFORMANCE BOND REQUIREMENTS**

The Planning Commission may require from the applicant, for the benefit of the Town, a performance bond in an amount sufficient to cover the full cost of constructing any public improvement that the Planning Commission may require in approving the project; such performance bond to be submitted prior to Final Subdivision Plan approval.

Security that the project shall be completed as approved may be required in the form of:

1. A surety bond, issued by a safety company authorized to do business in Vermont to be filed with the Selectboard in a form and amount satisfactory to it ,or
2. A letter of credit, cash, escrow account or savings bank book properly endorsed to the Town in the amount to be determined by the Selectboard, or
3. A performance bond from the developer or contractor.

The performance guarantee shall not be released until the Planning Commission has certified completion of the improvements in substantial accordance with the approved Final Subdivision Plan. The performance bond shall run for a term to be fixed by the Planning Commission, but in no case for a longer term than three (3) years. However, the term of such a bond may, with the consent of the owner, be extended for an additional period not to exceed three (3) years.

If any required improvements have not been installed or maintained as provided within the term of such performance bond, such bond shall be forfeited to the municipality and upon receipt of the proceeds thereof, the municipality shall install or maintain such improvements as are covered by such performance bond.

The Planning Commission may also require surety covering the maintenance of said improvements for a period of two (2) years after acceptance by the Town; said surety to be equal to but not less than 10 percent (10 %) of the estimated cost of those improvements.

## **5.8 LEGAL DATA**

Where applicable to a specific subdivision, the following may be required prior to approval of the Final Subdivision Plan:

1. An agreement to convey to the Town, land and/or Development Rights to be used roads, open space and other public purposes;

2. An agreement to maintain roads, parks, recreation areas and other improvements in the future and to waive any claim regarding the Town's obligation to accept said improvements as Town facilities;
3. Descriptions of easements and rights of way over other property to remain in private ownership; and
4. Description of easements to drain onto or across other property.

## **ARTICLE VI - ADMINISTRATION AND ENFORCEMENT**

### **6.1 APPEALS, ENFORCEMENT, PENALTIES AND AMENDMENTS**

The procedures and conditions for appeal, enforcement, penalties and amendments shall be in accordance with the provisions of the Act, Sections 4410, 4444, 4445, 4475, as presently enacted or from the time hereinafter amended.

### **6.2 SAVING PROVISION**

These Regulations shall not be construed as abating any action now pending under preexisting bylaws.

### **6.3 SEVERABILITY**

The invalidity of one provision of these Regulations shall not invalidate any other part.

## **ARTICLE VII - DEFINITIONS**

**Subdivision** The dividing of a parcel of land by sale, gift, mortgage, foreclosure, court ordered petition, or filing of a subdivision map of plat plan in the Town Land Records where the act of discussion results in three (3) or more lots with the bounds of the original parcel in existence on the effective date of this amendment. A subdivision shall be deemed to have occurred on the conveyance of the third lot or the filing of a plat in the Town Land Records, whichever shall occur first.

**Subdivision, Minor** Any subsequent partition of an existing parcel where the subdivision results in two lots total within the boundary of the parcel or an amendment, revision, or modification to a recorded plat, the result which creates no more than one additional lot within the bounds of the original parcel. A minor subdivision is not subject to the review standards of these Regulations but will require approval pursuant to the Braintree Zoning Ordinance.

**Subdivision Plan** A map representing a tract of land, showing the boundaries and location of individual lots, roads, and other improvements as required by these Regulations.

**Subdivision Approval** Actions taken by the Planning Commission approving a Final Subdivision Plan application following a duly noticed public hearing, such written decision addressing the standards for planning and design as set forth under Article IV.