

SUBDIVISION REGULATIONS
TOWN OF NEWTOWN
FAIRFIELD COUNTY, CONNECTICUT
ORIGINAL EFFECTIVE DATE
FEBRUARY 8, 1956
as amended through July, 2013
Newtown Planning and Zoning Commission
Tel: (203) 270-4276

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ARTICLE I DEFINITION OF TERMS

1.01 Applicant shall mean the owner of the record or his agent at the time of filing an application for final approval with the Commission.

1.02 Approval

1.02.100 Final Approval shall mean the approval contemplated by the Conn. General Statutes Chapter 126 as set forth in Section 4 hereof, and shall be granted only after submission and review of all documents required by these regulations.

1.03 Borough shall mean the Borough of Newtown.

1.04 Commission shall mean the Planning and Zoning Commission of Newtown, Connecticut.

1.05 Engineer shall mean the Engineer of the Town or any other engineer contracted by the Commission.

1.06 Final Subdivision Plan shall mean the plan required by the Conn. General Statutes Chapter 126 to be filed with the Town Clerk following final approval.

1.07 Health Officer shall mean the Health Officer of the Town or his agent.

1.08 Primary Recharge Area shall mean that land area immediately overlying the stratified drift aquifer. The boundary of the primary recharge area is the contact between the stratified drift and adjacent til or bedrock.

1.09 Resubdivision shall mean a change in a map of an approved or recorded subdivision or resubdivision if such change (a) affects any street layout shown on such map, (b) affects any area reserved thereon for public use or (c) diminishes the size of any lot shown thereon and creates an additional building lot, if any of the lots shown thereon have been conveyed after the approval or recording of such map.

1.05 Conventional Subdivision: A pattern of subdivision development that permits the division of land in the standard form provided by the Town for the District in which the land is located. (Added effective August 30, 2004)

1.10 Open Space: ~Land or water areas which include but are not limited to: areas left in their existing natural state; agricultural land for which development rights have been assigned or otherwise alienated in perpetuity; areas and facilities for non-commercial, non-profit passive and active recreation, areas for wildlife habitat, existing natural groundwater recharge, scenic preservation, and other lands so designated by the Commission pursuant to Section 12-107e of the Connecticut State Statutes, as amended. ~(Added effective August 30, 2004, amended effective 8/18/08).

1.11 Open Space Conservation Subdivision (OSCS): A pattern of subdivision development that results in a concentration of lots on a particular portion of a parcel in order to preserve the unique natural features of the parcel and which preserves the remaining land for open space. (Added effective August 30, 2004)

1.12 Selectman shall mean the First Selectman of the Town, the Board of Selectman, or a qualified inspector appointed as its agent.

1.13 "Stratified drift aquifer" shall mean a geologic unit of stratified drift, comprised of coarse and/or fine grained deposits, capable of yielding useable amounts of water.

1.14 Streets or Street shall mean and include streets, avenues, boulevards, roads, lanes, alleys, drives, terraces and ways other than private right of ways, shall meet the requirements of Section 4.0 and hereof, as applicable.

1.15 "Subdivider" shall mean the owner of record or his agent at the time of filing and recording of an approved final subdivision plan with the Town Clerk.

1.16 Subdivision shall mean the division of a tract or parcel of land into three or more parts or lots made subsequent to the adoption of subdivision regulations by the Commission, for the purpose, whether immediate or future, of scale, building development expressly excluding development for municipal, conservation or agricultural purposes, and includes resubdivision.

1.17 Town shall mean the Town of Newtown.

ARTICLE II - GENERAL REGULATIONS

2.01 Information Available

2.01.100 The Applicant should familiarize himself in advance with all State and Town regulations relative to health, buildings, roads and other pertinent data so that he is thoroughly aware of the obligations and standards expected. He should study thoroughly the Plan of Development, these subdivision regulations and the requirements contained therein.

2.01.200 Prior to the submission of an application for the subdivision of land and after becoming familiar with the documents and regulations relative to the subdivision of land, the applicant may, and is encouraged to request in writing, a pre-application review by the Commission. It is expected that applicants will identify to the Commission any unique features of the parcel that make it a candidate for a conventional or an open space conservation subdivision as permitted herein. Applicants are encouraged to provide sufficient information for the pre-application review that will assist the Commission's understanding of the unique features that will be preserved and enhanced with development. (amended effective August 30, 2004)

2.01.210 Nothing that is said or presented at the pre-application review by any party shall be considered evidence and shall not be binding on the Commission in any subsequent application presented to the Commission. (added effective August 30, 2004)

2.01.220 After becoming familiar with the documents and regulations relative to the subdivision of land, the applicant may request in writing, the Commission's interpretation of these and any other regulations in order to save unnecessary time and expense due to a misunderstanding and shall specify the sections of the regulations which the applicant desires the interpretation, together with a brief statement of the problem and specific questions which the applicant has regarding the regulations in question. The Commission may but shall not be required to hold a conference with the applicant regarding the applicant's request for an interpretation. (added effective August 30, 2004)

2.01.300 Where a landowner desires the Commission to determine whether or not an existing division of land constitutes a subdivision or resubdivision pursuant to the authority vested in the Commission by Connecticut General Statutes Section 8-26, the landowner shall submit copies of all prior maps of the land in question, including without limitation all maps which have been recorded in the Newtown Town Clerk's office, together with copies of all deeds or conveyances relating to the tract in question made or recorded from February 8, 1956, to the date of the request.

2.01.400 The written submission required by Sections 2.01.220 and 2.01.300 as conditions precedent to a conference may be waived as to specific requests by unanimous vote of the Commission members present and qualified to vote. The Commission may respond to such requests, either by holding a conference or by letter. (amended effective August 30, 2004)

2.02 The subdivision application must have received final approval by the Commission, and a final subdivision plan must be filed and recorded in the office of the Town Clerk before any owner or agent of the owner shall transfer, sell, or agree to sell any land from or in said subdivision. (See Section 6.01 hereof).

2.03 The land to be subdivided shall be of such character that it can be used for building purpose without danger to public health, safety or welfare. The land shall not be subdivided if the subdivision will endanger historical, archeological, natural or scenic resources. Land subject to periodic flooding, poor drainage, steep slopes or other hazardous conditions shall not be subdivided. Land with inadequate capacity for subsurface sanitary sewage disposal shall not be subdivided unless public sewers for said land are available or are to be installed according to the application for final approval. In areas contiguous to brooks, rivers or other bodies of water subject to flooding, proper provisions for protective flood control shall be described and plans therefore submitted with any application for final approval. Sewage disposal and water supply installations shall be made in accordance with the standards and requirements of the Newtown Sanitary Code and the Connecticut Public Health Code. All such applications and the plans and documents submitted therewith shall conform with these regulations, the Plan of Development, all updated elements of the Plan of Development, and all applicable local and state regulations, ordinances and statutes. (amended effective May 26, 2008).

2.04 In the event that the Applicant intends to destroy or remove the natural ground cover in excess of one-half acre, the applicant shall submit an erosion and sedimentation control plan in accordance with the requirements of the Zoning Regulations of the Town or Borough as applicable. (amended effective April 1, 2008)

2.05 In laying out the subdivision plan, the applicant shall give due regard to the preservation and potential enhancement of existing natural features, large trees, stone walls, scenic points, historic factors and other assets of a community nature. (Effective 3/30/98)

2.06 Removal of stripped topsoil or surplus earth materials from the subdivision area shall not be permitted other than in accordance with the Zoning Regulations. (Effective 3/30/98)

2.07 Any applicant proposing a residential subdivision of land containing twenty (20) or more acres or eight (8) or more lots is encouraged to consider an open space conservation subdivision (OSCS) as an alternative to the development of a conventional subdivision. (added effective August 30, 2004)

2.08 Any applicant proposing a residential subdivision may apply for an open space conservation subdivision (OSCS) if the open space to be preserved by an OSCS will be adjacent to preserved open space outside the parcel(s) boundaries or if the proposed OSCS will result in the

preservation and protection of one or more significant and/or unique natural features, as determined by the Commission. (added effective August 30, 2004)

ARTICLE III - APPLICATIONS PROCEDURE FOR FINAL APPROVAL OF SUBDIVISION PLAN

3.01 The following plans, maps and documents are hereby required to be submitted with the application for final approval of a subdivision:

3.01.100 A written application on the form provided by the Commission.

3.01.101 A certified check payable to the Town of Newtown in an amount in accordance with the Fee Schedule, as determined from time to time by the Commission, shall be submitted at the time of filing an application for subdivision approval with the Commission's Administrative Assistant during regular business hours. (amended effective 11/16/98, 11/11/02, 3/1/04, 4/1/08)

3.01.102 The report on percolation tests and test pits by the Professional Engineer, and the opinion of the Newtown Health Officer.

3.01.103 The final subdivision plan delineating items listed in subsection 3.01.500.

3.01.104 Supplement Maps delineating items listed in subsection 3.02, 3.03 through 3.03.500, 3.05 and 3.06. (Amended, effective April 14, 2003).

3.01.105 Plan-profile drawings, drainage analysis map, and related documents complying with requirements in subsection 3.07.

3.01.106 Performance Bond estimate pursuant to Section 3.08. (Amended, effective April 14, 2003).

3.01.107 Deeds to the Town of Newtown for all street rights of way and sanitary and storm sewer facilities and open spaces where appropriate.

3.01.108 Erosion and sediment control plan (map and written report) as required pursuant to Section 2.04.

3.01.109 An exact computation in cubic yards of the amount of earth material which will be excavated, removed, graded or added to the plot for which the subdivision or resubdivision plan is submitted prepared by the applicant's licensed Professional Engineer. Such computation shall differentiate between filing, excavation and removal. The Commission may require the applicant to provide additional information in sufficient detail to illustrate the computations submitted. (Effective 4/11/97)

3.01.110 A supplemental location map at a scale of 1"=1,200' that shows parcels of land that are within 5,000 feet of the proposed subdivision which are currently reserved as open space, parks,

playgrounds or which are owned by the Town the State, a land trust or a forest association.
(Effective 3/30/98)

3.01.111 A calculation of the areas within the entire subdivision and within the proposed open space that is wetlands, watercourses, slopes greater than 25% and rock outcroppings. Such information shall also be delineated upon the supplemental map submitted with the application.
(Effective 3/30/98)

3.01.112 An application for an Aquifer Impact Assessment, if required pursuant to Article II of the Newtown Zoning Regulations. (Effective 6/21/99, amended effective 4/1/08)

3.01.113 Any subdivision of land five (5) acres or more in area which has areas of special flood hazard shall provide the base flood elevation data and engineering analysis necessary for compliance with the Flood Damage Prevention Ordinance of the Town of Newtown. Any such application shall include the opinion of the designated Town staff and/or agency responsible for administration of the Flood Damage Prevention Ordinance that the proposal is in compliance with the ordinance. (Added, effective April 14, 2003, amended effective 1/1/07)

3.01.200 The name under which the proposed subdivision is to be filed in the office of the Town Clerk and the name of the owner or owners shall be indicated on all documents submitted as part of the application for final approval.

3.01.300 Eleven (11) copies of the application form, plans, maps and documents required pursuant to Sections 3.01, 3.02, 3.03, 3.04, 3.06, 3.07 and 3.08, one (1) check, and one (1) set of any necessary warranty deeds and/or easements shall be submitted with the application for final approval of a subdivision. (Amended, effective April 14, 2003)

3.01.400 Applications for final subdivision approval shall be filed in the Office of the Planning and Zoning Commission during regular business hours with such persons authorized by the Commission to receive such applications. No such application shall be considered filed or accepted unless all of the documents specified in Section 3.01 are included in the application. It is the applicant's responsibility to determine that all such documents have been filed. If any of the documents specified in Section 3.01 are missing from the application, it will be cause for the rejection of the application without further consideration. (Effective 5/5/97)

3.01.500 Final Subdivision Plans

3.01.510 The dimensions of the final subdivision plan shall be 36" long and 24" wide, or 18" long and 12" wide, or 18" long and 24" wide.

3.01.520 The final subdivision plan shall indicate disposition of land into lots, streets, open spaces and drainage courses. It shall be based on a boundary survey conforming to Class A-2 Transit Survey as set forth in the code of the Connecticut Technical Council, Inc., dated January 1945; and it shall be certified under appropriate seal as recommended by the Board of Registration for professional engineers and land surveyors of the State of Connecticut. Distances

on the boundary survey shall be to the nearest 100th of a foot, and bearings to the nearest 10 seconds.

3.01.530 Final Subdivision Plans shall indicate:

3.01.531 Title and boundaries of the proposed subdivision, total acreage, name of owner, scale of map, zone designation(s) and north arrow. If the subdivision plot is located in more than one (1) zone, the zone boundary shall be shown. (Amended, effective April 14, 2003)

3.01.532 Names of adjoining property owners, subdivision and existing buildings within the subdivision.

3.01.533 Streets to be constructed with stations, curve data, widths of paving, rights of way and easements. Station pluses shall be used.

3.01.534 Proposed radii of curvature of intersections of streets and proposed names of streets.

3.01.535 Proposed lots with dimensions, bearings and distances, lot areas in square feet or acres. The lot area calculation pursuant to Article VII, Section 7.02.110 of the Zoning Regulations shall be indicated for each proposed lot. (Amended, effective April 14, 2003, effective April 1, 2008)

3.01.536 Building setback lines as required by the Zoning Regulations of the Town or Borough, as applicable.

3.01.537 Proposed public land areas and use.

3.01.538 Existing and proposed survey monuments.

3.01.539 Complete existing and proposed watercourses, wetlands, ponds and drainage ways and FEMA flood boundaries. (amended effective April 14, 2003.)

3.01.540 All easements necessary for the installation of sanitary or storm sewers, or water mains, and other public utilities.

3.01.541 A key map shall show at a scale of 1" = 1200' the relation of the proposed subdivision to existing town streets and public utilities.

3.01.542 The location of water storage tanks for fire suppression required pursuant to Article VIII, Section 14 of the Zoning Regulations. (Effective 9/30/96, amended effective 4/1/08)

3.01.543 The "minimum square" and the percentage of inland wetlands located within the "minimum square", pursuant to the Town or Borough Zoning Regulations, as applicable. (Added, effective April 14, 2003)

3.01.600 The final subdivision plan shall include all of the contiguous property owned by the Applicant at the time of submission regardless of whether or not a substantial portion of the

Applicant's land remains undivided. Such remaining area shall be considered as a single lot, requiring approval as a resubdivision before further division of the remaining area occurs.

3.02 Supplemental Map

3.02.100 The Applicant shall also submit a map at a scale of 1" = 40' showing the location of recognized landmarks, stone walls, swamps and private roads within the areas to be subdivided and for a minimum of 100' beyond the boundary lines.

3.02.200 Said map shall include the location of all percolation tests and test pits, the location of existing and proposed wells and sewage disposal systems, existing buildings within one hundred (100) feet of the proposed subdivision, all watercourses and drainage areas carried a minimum of 100 feet beyond the property line, proposed or existing temporary dead-end streets and outlet streets within 100 ft. of the proposed subdivision, and present wooded areas by foliage line. In addition, if a subdivision contains temporary dead-end streets which could be extended in the future then said map must show how these streets may be extended to intersect with other Town streets even though this extension would require crossing property under separate ownership.

3.03 A Supplement Map shall be submitted which shall show natural features, and existing and proposed development features within the area to be subdivided and for a minimum of 100 feet beyond the boundary lines. The map scale will be 1" = 40' with a horizontal accuracy of at least one foot per 100 feet and a vertical accuracy of at least one-half contour interval. Sufficient temporary benchmarks are to be field established and accurately (Class A-2 Transit Survey) shown on the map to allow field location of important features, particularly; watercourses, wetlands, deep test pits, etc. The map shall be certified as being correct to the stated accuracy by a land surveyor or professional engineer licensed by the state of Connecticut.

3.03.100 The Supplement Map shall show all significant natural features existing in the area to be subdivided, and for minimum of 100 feet beyond the boundary lines. To be included, but not excluded others that may exist, are watercourses, wetlands, bedrock outcroppings, stonewalls, fences, outstanding large trees and wooded areas by foliage lines.

3.03.200 The Supplement Map shall include all proposed development features in the area to be subdivided, and for a minimum of 100 feet beyond the boundary lines. To be included, but not to exclude others that may exist, are buildings, other structures and fences; wells; streets, roads and driveways; location of all percolation tests and deep test pits (as required in 4.03.220); sewage disposal systems and drainage easements.

3.03.300 The Supplement Map shall include contours of existing and proposed topography at two feet intervals in relatively flat areas (10% or less grade) and in areas of regrading and proposed driveways. In areas of greater than 10% grade and where there shall be no development activity, contours may be at five foot intervals. In all cases spot elevations shall be shown at high and low points. The contour map shall be based upon USGS mean sea level and method of establishing contours must be noted.

3.03.400 The soil delineations shown on the soil survey map of the Soil Conservation Service of the United States Department of Agriculture shall be shown on the supplemental map, together with the wetlands as shown on the wetlands map prepared by the Newtown Inland Wetlands Commission acting as the Newtown Inland Wetlands Agency, pursuant to the authority of The Inland Wetlands and Water Courses Act of the State of Connecticut. (amended effective 1/1/07)

3.03.500 Said map shall also delineate the primary recharge area of any stratified drift aquifers, depicted on the map entitled Major Stratified Drift Aquifers - Town of Newtown , occurring within the proposed subdivision.

3.03.600 Supplemental Design Materials.

3.03.610 In addition to the requirements outlined in Sections 3.02 and 3.03 above, the following materials are expected application accompaniments that will assist the Commission in understanding the unique features of the site. (added effective August 30, 2004)

3.03.620 Site Context Area Map, prepared at a scale of not less than four hundred feet to the inch (1"=400') with a radius of one mile from the center of the subject parcel(s).. The Site Context Area Map shall include the following information: streets and street names; the subject parcel(s) outlined; existing land use; watercourses; waterbodies; known wetlands; parks; protected open space; greenways; trails; viewsheds of the site from streets within the mapped Site Context Area; historical features; archaeological features; and "Endangered Species" and "Threatened Species" and "Species of Special Concern" as identified by the Connecticut Natural Diversity Database and as located on the Connecticut Department of Environmental Protection's map titled "Significant Habitats and State Listed Species.(added effective August 30, 2004)

3.03.630 Municipal and State Environmental Protection Map of the subject parcel(s) that identifies those areas of the site that fall under the direct regulatory protection of the Town of Newtown and the State of Connecticut, including watercourses, wetlands, flood plains, aquifers, protected, endangered and species of special concern and slopes of 25% or greater. Any development proposed within these areas shall be subject to existing municipal regulation as part of the Town's policies to protect important natural resources and environmental features. This information shall be mapped on a topographic map containing two foot contour intervals at a scale of not less than one hundred feet to the inch (1"=100'). (added effective August 30, 2004)

3.03.640 Site Conservation Features Map that identifies site features to be considered in designing a subdivision, including; mature woodland areas, open fields, State designated farmland soils, non-hydric soils unsuitable for development as published by the State of Connecticut Department of Environmental Protection, stonewalls, rock outcrops, historic or archaeological factors, trails, views from within the site, easements and neighboring features including streets, houses, protected open space, Town parks, State Forests and State Parks. This map shall have topographic lines, at 10' minimum intervals and shall be prepared at a scale of not less than one hundred feet to the inch (1"=100). (added effective August 30, 2004)

3.03.650 Areas Suitable for Development that identifies the areas of the parcel(s) that are most suitable for development. Said map shall be prepared as an overlay of the Municipal and State Environmental Protection Map at a scale of not less than one hundred feet to the inch (1"=100')

and shall include topographic lines, at 10' minimum intervals. (added effective August 30, 2004)

3.03.700 Archaeological, Historical and Cultural Resources Preservations (added effective May 19, 2009)

3.03.701 - Subdivisions and resubdivisions shall be laid out to preserve all significant natural, cultural, historical and archaeological features. These shall be noted on the subdivision site and mapped on an Archaeological, Historical and Cultural_Resources Map derived from expert testimony to be of significant historical or cultural value.

3.03.702 - For the purpose of these regulations, the following items and words shall have the following meanings:

a. Archaeological Site:

“areas of historic, prehistoric or symbolic importance, upon which occurred important historic or prehistoric events, or which are importantly associated with historic or prehistoric events or persons or cultures, or which were subject to sustained historic or prehistoric activity of man...”(from the Department of the Interior’s definition as published in Preparation of Environmental Statement and Guidelines for Discussion of Cultural Resources)

b. Archaeological Surveys:

Professionally conducted surveys, carried out in accordance with the standards and guidelines described in the Environmental Review Primer consisting of the following levels of investigation: Archaeological Assessment Survey (Phase 1), Reconnaissance Survey (Phase 2), and Intensive Survey and Data Recovery Program (Phase 3).

c. Cultural Resources:

Consists of historic and prehistoric archaeological sites and standing structures; cemeteries, human burials, human skeletal remains and associated funerary objects and distributions of cultural remains and artifacts.

d. Environmental Review Primer:

The Environmental Review Primer for Connecticut’s Archaeological Resources, latest edition as published or available from the State Historic Preservation Office or the State Archaeologist

e. Professional Archaeological Consultant:

A professional archaeologist who has professional training and experience and is included in the State Archaeologist and the Connecticut Historical Commission/State Historic Preservation Office list of recognized professional archaeologists.

3.03.703 An Archaeological Assessment Study shall be completed on any subdivision submitted to the Commission. Results of the Survey can be supported by the Town of Newtown Archaeological and Historical Sensitivity Map, generated by the Newtown GIS Department. If an or contains a site identified on the same map as of “Archaeological” or Archaeological Assessment Survey is significant, a complete Archaeological Assessment Survey and report shall be prepared in accordance with the standards and guidelines described in the Environmental

Review Primer and shall accompany the application. The survey and report, prepared at the applicant's expense, shall be conducted by a professional archaeologist with credentials recognized by the state Historical Preservation Office or, the Office of the State Archaeologist.

3.03.704 - Where any portion designated for development within a subdivision tract lies within an area identified as significant by the Archaeological Assessment Survey, an Archaeological Reconnaissance Survey and report shall be conducted at the applicant's expense.

3.03.705 - The Archaeological Reconnaissance Survey and Report shall specifically identify, locate and describe all archaeological and historical resources of the site and shall identify their boundaries. The report shall also analyze and evaluate the archaeological and environmental data and shall include mapping of resource-free areas.

3.03.706 - If a site is determined by the Commission, in its review of the application, to possess significant archaeological or historical merit, it shall withhold approval of the plan unless the applicant:

- a. Restricts the full extent of the area found to possess historical or archaeological significance, so as to preserve the same area free from development, by means of a permanent preservation easement granted to the Town or a recognized conservation entity, with perpetual rights to conduct limited archaeological research on the same area at reasonable times; or
- b. Conducts, at the applicant's expense, an Intensive Archaeological Survey and data recovery program. The professional conducting the survey and the methods used shall meet the requirements cited in Section 3.03.602. This survey and report shall clearly identify the portions of the site area which may be developed without detriment to the site's archaeological, historical and cultural context, significance and integrity.

3.03.7 07 - If a site contains development within areas where an Intensive Archaeological Survey has been conducted, the Commission shall seek to maximize the protection and in situ preservation of archaeological resources. The preservation program shall become a binding condition of any subdivision approval and the subdivision map approved by the Commission shall clearly delineate the areas to be preserved or protected and the conditions which govern their use. The applicant shall be responsible for all costs associated with the preservation program.

3.03.800 - Environmental Impact Report for Subdivisions (added effective December 28, 2009).

All subdivision and resubdivision applications shall include an Environmental Impact Report (EIR), that addresses conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the town.

The EIR shall be utilized by the applicant during the design phase of the project to mitigate any potential negative environmental impacts.

The EIR shall include an assessment of environmental issues and mitigation, in addition to those covered by the Town of Newtown Inland Wetlands Commission and regulations. These issues, as applicable to a specific project, may include, but are not limited to, impacts on:

- ecosystem fragmentation, including plant and animal habitats and wildlife corridors;
- inter-watershed basin transfer of surface waters;
- forest ecosystems;
- natural resources inventory;
- species diversity;
- flora and fauna, including but not limited to threatened or endangered species (i.e., food chain disruptions; diminished species populations; changes in predator-prey relationships); and
- the environment, public health and safety. (added effective December 28, 2009).

3.04 A contour map, based on USGS means sea-level datum shall be submitted, certified by a land surveyor or professional engineer located in Connecticut. For relatively level areas, the existing contours shall be shown at one or two foot intervals, with spot elevations at high and low points. For rolling or rough land, existing contours shall be shown at five foot intervals, with spot elevations at high and low points.

3.05 All easements necessary for the installation of sanitary or storm sewers, water mains, or other public utilities shall be properly executed by the owner of the proposed subdivision. The owner shall deliver to the Commission all easements running to the Town and shall deliver a letter from the appropriate public utility corporation stating that the subdivider has tendered an easement to said utility.

3.06 Where the final subdivision plan discloses a substantial portion of the Applicant's property is not divided into lots of the minimum size permitted in the zone in which the property lies, and it is apparent that future subdivision or resubdivision is contemplated, then a further supplemental map shall be submitted showing the contemplated layout of proposed streets and lots, with an indication of the sequence in which the various areas shown on said map will be developed.

3.07 Plan - Profile Drawings

3.07.100 Plan - profile drawings of all proposed streets shall be submitted with the subdivision plan. Plan-profiles shall be at a scale of 1" = 40' in plan, and 1"=40 horizontal and 1"=4' vertical in profile. Elevations shall refer to USGS datum. Drawings shall include the following:

3.07.110 Layout of proposed streets in both plan and profile indicating right of way dimensions as shown on the final subdivision plan, width of right of way and paving. Existing and proposed centerline grade lines with stations every 50 feet vertical curve data and percent of grade.

3.07.120 Typical cross-section of the streets with paving, shoulders, curbs and ditches in detail.

3.07.130 Plan-profile maps shall also show all utility lines, encroachment lines, and all easements for utilities, drainage, and other rights of way, with location; size and inserts of existing and new culverts, and the entire drainage system.

3.07.140 Drainage analysis map.

3.07.141 A drainage analysis map shall show the tributary watershed area and downstream area affected by run-off. Drainage computations shall consider the entire watershed area; criteria and computations used in determining pipe sizes shall be submitted on 8 X 11 inch sheets.

3.07.142 Where required in the judgment of the Commission, street intersection shall be developed at a larger scale, showing catch basins, gutter, road center line, curb and sidewalk elevations.

3.07.143 Where required in the judgment of the Commission and based upon initial review of the drainage computations, the street layout and profile shall exclude the use of curbs and provide grassed shoulders or other acceptable means deemed appropriate by the Commission to prevent excess storm water runoff and to insure adequate on-site recharge.

3.08 Bond Requirements

3.08.100 A performance bond shall be filed with the Commission guaranteeing the improvements required for existing and proposed streets, water supply, water storage tanks for fire suppression, sanitary sewer and storm drainage facilities and any other improvements required by these regulations including without limitation the improvements required by Section 4.01, 4.05 and 4.10 hereof. Said performance bond shall assure the installation and completion of the improvements before an agreed date, not to exceed five (5) years. Said five year period may be extended by the Commission to ten (10) years with the consent of the surety, on the recommendation of the Selectman, to allow completion of the top surface of the street pavement. (Effective 9/30/96, amended effective 10/18/10)

3.08.200 The performance security, payable to the Town of Newtown, shall be either in the form of the certified check or a letter of credit and shall guarantee the actual construction, maintenance and installation of such improvements and utilities as shown on the approved plans. The security shall be in terms satisfactory to Town counsel and shall be returned to the subdivider after full compliance. The security shall be in an amount equivalent to 100 percent of the cost of all improvements as estimated below. (Effective 5/5/1997)

3.08.210 Detailed cost estimates for all improvements shall be submitted by the subdivider's professional engineer to the Commission for review. If the Commission, after obtaining the advice of the Selectman, determines that said estimates are unrealistically low, the Commission may obtain an estimate from the Town Engineer of the cost estimate used to determine the amount of the performance bond.

3.08.300 The performance bond shall not be released until the Selectmen have certified to the Commission completion of the public utilities, streets, other road improvements in accordance

with the Newtown Road Ordinance, the street or streets have been legally accepted by the Town, deeds covering land to be used for public purposes, open space, drainage and other easements, and rights of way over property to remain in private ownership, are submitted in a form satisfactory to Town Counsel; and all monuments and lot corner pins are in place. All recording fees shall be paid by the subdivider.

3.09

3.09.100 After a completed application has been submitted to the Commission, the Commission shall approve, modify and approve, or disapprove any subdivision or resubdivision application or maps or plans, within the period of time permitted under Section 8-26d of the Connecticut General Statutes, as amended. The Commission shall hold a public hearing on any application for subdivision and shall hold a public hearing on any application for resubdivision. The Commission may approve an application contingent upon the receipt of a performance bond pursuant to Section 3.08 of these regulations. If the application is disapproved, the Commission shall include in its minutes, its reasons for disapproval. The applicant shall be notified of the Commission's decision by certified mail within fifteen days after such decision. Notice of the decision of the Commission shall be published in a newspaper having a substantial circulation in the municipality. (Amended, effective April 14, 2003)

3.09.110 No subdivision plan shall be approved unless each lot, and roadway shown thereon complies with the Newtown Subdivision Regulations, the Zoning Regulations of the Town or Borough as applicable, the Newtown Road Ordinance and the Newtown Flood Damage Ordinance. (Added, effective April 14, 2003, amended effective April 1, 2008)

3.09.200 Upon approval, the applicant shall submit the original polyester film or linen transparency of the plan for subdivision to the Commission for endorsement thereon by its chairman or secretary. If the applicant is required to file a performance bond, then the final approval shall not be endorsed on the subdivision map until such bond is received by the Commission. The final plan for subdivision shall be recorded at the subdivider's expense in the office of the Town Clerk within ninety (90) days of the expiration of the appeal period specified under Section 8-8 of the Connecticut General Statutes, as amended, or in the case of an appeal, within the period of time specified under Section 8-25 of the Connecticut General Statutes, as amended. The Commission may extend the time for such recording for two additional periods of ninety (90) days. Any plan not so recorded within the prescribed time shall be null and void. Any plan for subdivision recorded without the endorsement of the Commission shall be void. (Amended, effective April 14, 2003)

3.09.201

3.09.210 In addition to the original subdivision plan for recording, the applicant shall deliver, an electronic copy of such approved plan, for purposes of adding the approved subdivision to the Town's Geographic Information System (GIS). The electronic copy shall meet the following criteria:

1. Drawings shall be on a compact disk (CD)
2. Electronic drawings shall be in a format as prescribed by the Town's GIS coordinator.

3. Electronic drawings shall be accompanied by a certification letter that the electronic drawing is a copy of the subdivision or resubdivision map that was approved by the Commission for recording in the office of the Town Clerk. A land surveyor licensed by the State of Connecticut shall certify the letter. (Added, effective April 14, 2003)

3.09.300 The date on which the final subdivision plan is signed by the Secretary of the Commission shall be the date of final approval and shall be shown on said final subdivision plan.

3.09.400 Any person, firm or corporation making any subdivision of land shall complete all work in connection with such subdivision within five years after the approval of the plan for such subdivision; the Commission's endorsement of approval on the plan shall state the date on which such five-year period expires.

3.09.500 In the case of a subdivision plan approved on or after October 1, 1977, failure to complete all work within such five-year period shall result in automatic expiration of the approval of such plan, provided the Commission shall file on the Newtown land records notice of such expiration date on the approved subdivision plan on file in the office of the Newtown Town Clerk, and no further lots shall be conveyed in the subdivision except with approval by the Commission of a new application for subdivision of the subject land. Work for purpose of this section means all physical improvements required by the approval of the plan, other than the staking out of lots, and includes but is not limited to the construction of roads, storm drainage facilities and water and sewer lines, the setting aside of open space and recreation areas, installation of telephone and electric services, planting of trees or other landscaping, and installation of retaining walls or other structures.

3.10 Public Hearing

3.10.100 The Commission shall hold a public hearing regarding any subdivision proposal if, in its judgment, the specific circumstances require such action. The public hearing shall be warned by the Commission as required in Section 8-26 of the Connecticut General Statutes, as amended (amended effective April 1, 2008).

3.10.200 The applicant shall provide written notice of the time and place of such public hearing to persons who are owners of land which is within 500 feet from the land which is the subject of the hearing. The notices shall be on a form provided by the Commission and shall be mailed no less than ten (10) days before the hearing date. The applicant shall provide a Certificate of Mailing (form PS 3877) and an Affidavit stating that the mailings were accomplished according to this section to the Commission's clerk before the date of the public hearing. The Commission shall be exempt from this requirement. (added effective 5/18/92, amended effective 8/30/04, 11/28/05, amended effective 4/1/08)

3.11 Technical Expert Services

3.11.100 The Commission may engage technical experts, at the expense of the applicant, to review the plans and materials submitted by the applicant. (added effective August 30, 2004, amended effective April 1, 2008)

3.11.200 The need for such technical expert services shall be identified by the Commission at the time of submission of an application and the cost for such services shall be paid by the applicant to the Commission as a requirement for a complete application submission. (added effective 8/30/04, amended effective 4/1/08)

3.12 Acceptance of Improvements

Requirements and procedures for the acceptance of streets shall be in accordance with the Newtown Road Ordinance.

3.13 Staking & Inspections

3.13.100 It is customary for the Commission and staff to conduct informal field inspections of land under consideration for subdivision development. Certain field marking such as telephone pole numbers and other field marks should appear on the survey maps to assist in field identifying the exact location of the land. (added effective 12/27/04)

3.13.200 Applicants shall provide for the field marking of their development with labeled stakes at least two weeks before the public hearing. The following areas shall be staked: corners of subdivision plot; corners of open space areas and proposed access ways from existing streets; the center line of all proposed roads at the point where it meets the existing street and at the end of the proposed road. If the proposed road is lengthy, intermittent stakes should be placed between the two points. Wetlands marking should be renewed and the pipes for the test pits for septic systems required pursuant to Sections 4.03.220 and 4.03.230 shall be marked with the test pit numbers. (added effective 12/27/04, amended effective 4/1/08)

ARTICLE IV - Substantive Provisions

4.01 Proposed Streets, Sidewalks

4.01.100 Proposed streets shall be appropriate to the topography and location, giving due consideration to contours, natural features, historic factors, and existing streets, and shall conform to the objectives of the Plan of Conservation and Development. Proposed streets shall be in harmony with existing or proposed principal thoroughfares shown in the Plan of Conservation and Development as amended from time to time, especially in regard to safe intersections with such thoroughfares. When required by the Commission, provision shall be made for future extension of streets into the adjoining land. Construction and layout of proposed streets shall conform to the Newtown Road Ordinance, including without limitation, a minimum width of fifty (50) feet and adequate storm drainage facilities. All storm water drainage shall be designed to incorporate best management practices that are consistent with the Connecticut Department of Environmental Protection (DEP) nonpoint source management program and guidelines for pollution controls and shall be consistent with the DEP 2004 Connecticut Stormwater Quality Manual, as amended. If such drainage crosses land not owned by the Applicant, easements must be provided to the Commission with the application. (Amended effective August 11, 2003, effective April 1, 2008)

4.01.200 When a proposed subdivision adjoins undeveloped land capable of being subdivided, street rights of way (outlet streets) shall be provided from the streets in the proposed subdivision to the boundary with adjoining property at locations acceptable to the Commission. Outlet streets shall be deemed streets for purposes of establishing setback lines but shall not provide sole frontage for any lot shown in the proposed subdivision, need not contain a temporary turnaround and the improvement thereof shall not be considered a subdivision improvement of the proposed subdivision nor be required as part of the proposed subdivision bond filed for the proposed subdivision.

4.01.300 Where it is possible for a street in a proposed subdivision to connect with a temporary dead-end street in an existing subdivision or to an unimproved street in an existing subdivision left for future improvement as an outlet street to adjoining property, the plan-profiles of the proposed subdivision shall show, and the application for final approval shall include all work required to connect and complete the outlet street within the existing subdivision and the improvements and utilities between the proposed and the existing subdivisions.

4.01.400 Dead End Streets

4.01.410 A permanent dead-end street is a street the end of which is blocked from further extension by lots within the proposed subdivision. Temporary dead-end streets are those which terminate at the boundary of the proposed subdivision or for which an outlet street has been provided from the end of the portion to be improved to the boundary of the proposed subdivision.

4.01.420 Dead-end streets shall terminate in a turn-around 100 feet in diameter with a completely paved level area 80 feet in diameter. The segments of the turnaround on a temporary dead-end street outside the normal street right of way width shall be dedicated to the Town for highway purposes but with the restriction that said segments shall revert to adjoining lot owners when the temporary dead-end street is extended and the extension is accepted by the Town.

4.01.430 Permanent dead-end streets shall provide sole access to a minimum of 4 lots.

4.01.440 No permanent or temporary dead-end street or series of dead-end streets intersecting with each other shall provide the required street frontage or provide sole access to an existing street for more than 15 dwellings total. This restriction shall apply to a series of streets or a street making a loop with itself provided that such streets have only one intersection with an existing street. For the purposes of this regulation the term existing street is defined as a roadway which has received all the necessary municipal and state approvals to carry vehicular traffic as a street on or before October 2, 1967, the date of adoption of these regulations. The Applicant has the burden of proving that the street existed on October 2, 1967 and that it continues to exist.
(Effective 11/29/99)

4.01.500 Where the Commission classifies a proposed street pursuant to the Newtown Road Ordinance as other than a local residential street, then the right of way of that street shall have the width required by the Road Ordinance for the particular classification made. Where a proposed street may now or in the future carry other than neighborhood traffic, and where the

location of such a street is shown on the Plan of Development, a right of way greater than 50 feet in width may be required by the Commission.

4.01.600 Proposed subdivision streets shall intersect existing and other proposed streets at right angles for a distance of at least 100 feet from the intersecting street lines unless otherwise approved by the Commission. Street lines at intersections shall be connected by a curve having a minimum radius of 25 feet. Final approval will not be given where streets are shown on the final subdivision plan intersecting with each other at an angle of less than 60 degrees.

4.01.700 Where a proposed street or storm drainage system is to be integrated or connected in any manner with a Connecticut State Highway, final approval will not be granted until the Connecticut Highway Department has expressed its approval of said connection in writing to the Commission, and all necessary permits have been secured by the applicant.

4.01.800 – All proposed street plans shall include installation of concrete sidewalks on both sides of the proposed subdivision streets. (added effective January 16, 2012)

4.02 Existing Streets

4.02.100 No land shall be subdivided nor final approval given until or unless:

4.02.110 The right of way of the existing street or streets which provide frontage to proposed lots or access for proposed streets in one which has been established as a Town street or State highway, and the right of the Public to use said street shall not have been lost by abandonment. Subdivision of land on private streets, roads or rights of way is prohibited.

4.02.120 The final subdivision plan shows a street right of way dedicated for public highway purposes at least 25 feet in width, measured at right angles from the center line on either side of the center line of the existing street right of way at all points where land in the proposed subdivision abuts said existing street or streets. Unless there is physical evidence such as well defined stone walls, the center line of the existing traveled portion of the street shall be presumed to be the center of a street right of way. Where land on the opposite side of the existing street from the proposed subdivision has been subdivided subsequent to October 2, 1967, the 25 foot measurement shall be taken from the same center line as used by the prior subdivider in showing the existing street right of way so that the resulting width of the existing street right of way will be at least 50 feet.

4.02.130 No steps required by the General Statutes for the discontinuance or realignment of streets or public highways shall have been taken with reference to any existing street which provides frontage to proposed lots or access to proposed streets.

4.02.140 Any application that proposes to direct the storm water discharge to enter the storm drainage disposal facilities on any existing street shall be required to illustrate to the Town Engineer's satisfaction that the storm drainage disposal facilities into which such drainage will flow are adequate to carry the additional storm drainage from the proposed subdivision. Where

there are no existing storm drainage facilities or if they are inadequate to carry the additional storm drainage to be created by the development of said subdivision, the Commission may disapprove the subdivision unless the legislative body of the Town approves the expenditures for the construction or improvement of said storm drainage disposal facilities or construction or improvement of said facilities is included in the application for final approval. (amended effective April 1, 2008)

4.02.200 Where a subdivision in the opinion of the Commission would require unreasonably large expenditures by the Town to grade and improve existing streets to serve vehicular and pedestrian traffic to be generated by the proposed subdivision in a safe manner, the Commission may disapprove said subdivision unless such expenditure has been approved by the legislative body of the Town, or the grading or improvement of said existing street or streets is included in the application for final approval, or the subdivider has entered into a contract with the Town for a nominal consideration to improve said existing streets to serve the traffic to be generated by the proposed subdivision in a safe manner. In the event that the subdivider intends to enter into such a contract with the Town a copy thereof and a plan and profile showing the work to be done shall be submitted to the Commission prior to final approval.

4.03 Water and Sewage

4.03.100 The application for final approval shall provide that water supply, storm water drainage and sanitary sewage disposal facilities can be installed with respect to all lots in accordance with the Newtown Sanitary Code. All facilities required to be installed by Subsection 4.03.110 hereof shall be shown on the appropriate plan-profile and installed under the supervision of the appropriate Town agency, and shall conform to the requirements of and be approved by the corporation or municipal department having jurisdiction.

4.03.110 In subdivisions to which public water, public sanitary sewers or public storm sewers are available, and all mains, conduits, laterals to the street are available, each building lot, branch offsets, fire hydrants or facilities of like nature necessary to a complete utility system shall be installed by the subdivider without expense to the Town.

4.03.200 Prior to applying for final approval, the applicant must complete the following tests:

4.03.210 Where private individual sewage (and waste water) disposal systems are proposed, the Applicant shall complete one percolation test per septic or waste water system proposed within the area where the system is to be located.

4.03.220 Where a septic (and waste water) system is proposed, the Applicant shall dig test pits in accordance with the Newtown Sanitary Code. Two test pits shall be dug to a depth of seven (7) feet or refusal (bedrock) where each such system is to be located and one in the reserve area. Each of these test pits shall be marked with a 4 inch diameter plastic pipe 8 feet long placed vertically in the bottom of the test pit before filing with the excavated soil. These pipes will be marked with the test pit number.

4.03.230 All tests shall be made in locations recommended by the Newtown Health Officer or his representative, and shall be conducted by a professional engineer in accordance with the Newtown Sanitary Code. Said professional engineer shall submit a report to the Commission showing the location of each percolation test and test pit, together with the percolation observed, soil characteristics and the depth to ground water table. The Commission may reject the results of any percolation tests or deep pit tests conducted during the months of July and August, or during an extended period of drought, or during January or February as to deep pit tests, where it appears that such tests are not a true indication of ground water level or capacity for subsurface sanitary sewage disposal. Before giving final approval the Commission shall request the Newtown Health Officer for his opinion as to whether or not a proposed subdivision or any lot or lots therein are capable of meeting public health requirements of the State of Connecticut and the Newtown Sanitary Code.

4.03.300

4.03.310 If an application involves land regulated as an inland wetland or watercourse under the provisions of The Inland Wetlands and Water Courses Act of the State of Connecticut and the Newtown Regulations adopted pursuant to the authority of said Act and the Newtown Inland Wetlands Commission acting as the Newtown Inland Wetlands Agency has not already reviewed the application, the Applicant shall file an application with said Inland Wetlands Commission no later than the day the application is filed for the subdivision or resubdivision. The Commission shall not render a decision until the Inland Wetlands Commission has submitted a report with its final decision to such Commission. In making its decision, the Commission shall give due consideration to the report of the Inland Wetlands Commission. (amended effective 1/1/07)

4.03.320 In acting on the application for final approval, the Commission may rely on the soil survey maps of the Soil Conservation Service of the United States Department of Agriculture, pursuant to the authority set forth in Section 8-2b of the Connecticut General Statutes (Rev.1958), and the Wetlands Map which is part of the Wetlands Regulations promulgated by the Newtown Inland Wetlands Commission acting as the Newtown Inland Wetlands Agency. (amended effective 1/1/07)

4.03.330 In the event that the application discloses that a portion of a lot consisting of wetlands and watercourses is needed for construction of any building, driveway, septic system, structure or regulated activity, as defined by regulations adopted pursuant to the Inland Wetlands and Water Courses Act, then the application shall be denied by the Commission unless the Applicant has received a license from the Newtown Inland Wetlands Commission acting as the Newtown Inland Wetlands Agency that such acting portion of the lot may be used for such purpose. (amended effective 1/1/07)

4.04 In any proposed subdivision in which a proposed street is to be constructed, the subdivider shall require all utility facilities, including without limitation telephone and electric lines, to be installed underground at no expense to the Town. This section is not to conflict in any way with the power of the Connecticut Public Utilities Commission to regulate said public utility companies.

4.05 Open Spaces and Tree Planting

4.05.100 For any subdivision, not less than fifteen percent (15%) of the total area of the subdivision shall be reserved as open space, parks and playgrounds. ~The location and configuration of such reserved areas shall be in places deemed by the Commission to be consistent with the open space objectives outlined below. ~The subdivision applicant may initially propose the location and size of the open space but the Commission may reject the applicant's open space proposal and designate a different area for said open space within the limits of this section. ~Generally, the access way to any open space land and trails shall be provided as part of the open space land. ~Trail easements over private land are discouraged in favor of trail ownership in conjunction with open space. (Added Effective date, Amended 4/26/04)

4.05.200 Open Space Objectives

4.05.210 In determining the location, appropriateness, configuration and size of open space, parks and playgrounds, the Commission shall be guided by the goals and objectives for open space and recreation as set forth herein, the recommendations of the Conservation Commission and in the Plan of Conservation and Development. ~The Commission may consider the effect which the proposed subdivision may have on the surrounding neighborhood as a result of the elimination of undeveloped land and the need to maintain a healthful environment. ~The characteristics of the subject site and its proximity to existing and future open space lands and green ways will be reviewed with respect to preserving the rural, open character of Newtown, its visual quality and special natural areas. (Added effective date, amended 4/26/04, 8/18/08).

4.05.220 Open space shall be comprised of land that is characteristic of features and topography as found upon the entire site. The supplemental map for the proposed subdivision shall clearly show a calculation of the percentage of steep slopes (greater than 25%), wetlands, watercourses, and rock outcroppings both on the entire site and in the area which the applicant proposes to set aside as open space. The percentage of land within the proposed reserved open space which is steep slopes, wetlands, watercourses, and rock outcroppings shall be no greater than the percentage of land within the entire subdivision parcel which is steep slopes, wetlands, watercourses, and rock outcroppings.

4.05.225 The proposed plans may show greater than 15% of the total land to be set aside, so long as provisions of 04.05.100 are met (amended effective 8/18/08).

4.05.230 The land to be reserved for open space purposes shall be prioritized as follows starting with the most important:

4.05.230.1 The conservation and protection of wildlife habitat areas, natural or scenic features and resources, historic or archeological features;

4.05.230.2 The meeting of neighboring and/or community-wide recreational needs;

4.05.230.3 The expansion of existing open space and recreational areas present on adjoining properties;

4.05.230.4 The preservation of agricultural lands and soils.

4.05.230.5 The preservation, relocation and/or enhancement of existing trails having public access rights;

4.05.230.6 Connecting parcels of open space with existing or proposed green way corridors for pedestrian, bicycle or bridle paths;

4.05.240 If the Commission determines that the provisions of Sections 4.05.220 and 4.05.230 cannot be reconciled for a particular piece of property, the provisions of Section 4.05.230 shall take precedence over the provisions of Section 4.05.220, with determining factors as recommended in 4.05.210(amended effective 8/18/08).

4.05.300 The open space requirement of this section shall not apply if the transfer of all land in a subdivision of less than five parcels is to a parent, child, brother, sister, grandparent, grandchild, aunt, uncle, or first cousin for no consideration, or if the subdivision is to contain affordable housing, as defined in Section 8-39a of the General Statutes, as amended, equal to twenty-five percent or more of the total housing to be constructed in such subdivision.

4.05.400 The Commission shall determine the most appropriate method of disposition of any open space after considering the relationship of the subject area(s) and its specific characteristics to the Plan of Development, the prioritized objectives cited in Section 4.05.230, the desirability and suitability of public access and use, the lasting environmental or recreational benefit, and the scope of the subdivision proposal. The following disposition options may be utilized by the Commission: perpetual dedication to the (Deleted Sections) Town, the State, a land trust or a forest association; or any combination of the above alternatives approved by the Commission (amended effective 8/18/08).

4.05.500 The Commission may refer, for review and comment, any subdivision plan and proposal for the provision of open space, parks and playgrounds to any other appropriate agency as deemed necessary.

4.05.600 Condition of open spaces, parks and playgrounds.

4.05.610~Open space areas shall be contiguous within the subdivision and shall have direct access to a public street or, as appropriate, from any existing park, public land, trail or green way corridor. ~Typically abandoned railroad beds and certain trails within a subdivision shall be set aside for open space rather than as an access easement over private land. ~(Added effective date, amended 4/26/04)

4.05.615 Open space areas shall have a minimum width of 25 feet (amended effective 8/18/08).

4.05.620 Land to be provided as open space for the purpose of conservation and protection of wildlife habitat and historic, archeological, natural or scenic resources shall be left in a natural

state by the subdivider. Except for improvement as may be required by the Commission, open space areas shall not be graded, cleared or used as a reposition for brush, stumps, earth, building materials or debris. The Commission may require that any land to be dedicated for recreational use be cleared of brush, trees and debris; be graded to properly dispose of surface water; be covered with organic topsoil to a depth of six inches; be seeded with low maintenance grass seed; be clearly marked with lot pins and signs and be otherwise improved so that the land is left in a condition appropriate to the intended use. When site improvements are required, they shall be clearly shown on the record maps and they shall be approved by the Commission prior to the filing of the record map.

4.05.630 The Commission shall require that open space areas within the subdivision be marked with monuments, or other suitable markers, at its sole discretion. Such monuments and markers shall be indicated on the record map and shall be considered improvements for which the performance security as required in Section 3.08 of these regulations shall apply (amended effective 8/18/08).

4.05.700 Fee in Lieu of open Space

4.05.710 In lieu of the requirement of Section 4.05.100 to provide open space and with the approval of the Commission, the applicant may pay a fee to the Town of Newtown or may pay a fee to the Town of Newtown and transfer land to provide open space. Such payment or combination of payment and the fair market value of land transferred shall be equal to ten percent (10%) of the fair market value of the land to be subdivided prior to the approval of the subdivision. The fair market value shall be determined by an appraiser jointly selected by the Commission and the applicant, at the expense of the applicant. A fraction of such payment, the numerator of which is one and the denominator of which is number of approved parcels in the subdivision shall be made at the time of the sale of each approved parcel of land in the subdivision and placed in a fund in accordance with the provisions of the Connecticut General Statutes, as amended.

4.05.720 Fee payments in lieu of open space shall be deposited in a fund which shall be used for the purpose of preserving undeveloped land or acquiring additional land for open space, recreational or agricultural purposes in accordance with the Connecticut General Statutes.

4.05.730 The applicant shall prepare and submit to the Commission a lien document suitable for recording at the Town Land Records for each approved lot in the subdivision plan. Each lien document shall state the exact dollar amount to be paid to the Town at the time of sale of the lot as required by the provisions of this regulation. A release of lien for each lot shall be provided by the Town upon the Town's receipt of the fee for each lot.

4.05.800 When only part of the total contiguous tract owned by the applicant is proposed for immediate subdivision, the Commission may in lieu of requiring open space, parks, and playgrounds in the portion being subdivided, accept an option in favor of the Town for the dedication of an area of the portion not being subdivided for open space parks and playgrounds. Such an option shall be in a form acceptable to Town Counsel, shall be irrevocable, shall specifically describe the area to which the option applies which cannot be required to be larger

than the area which could be required in the portion being subdivided and shall be executed with the formalities necessary to convey real property in the State of Connecticut. Said option shall be accompanied by a Certificate of Title signed by an attorney licensed to practice in the State of Connecticut. Said option shall be accompanied by a Certificate of Title discloses liens, mortgages, or encumbrances on the property. The applicant shall provide subordination agreements or similar documents subordinating all such liens, mortgages or encumbrances to said option. Said option shall be recorded in the Land Records of the Town of Newtown and shall be exercisable by the commission upon approval by it or a subdivision of that portion of the tract of land owned by the applicant containing said open space, parks and playgrounds.

4.05.900 Where ever possible, trees shall be left in the front yards of building lots. Where few trees are preserved, each lot shall have trees of not less than 2.5 inch caliper planted every fifty feet on center along the road by the subdivider at his expense. These trees shall be of a quality which meets the requirements of the American Association of Nurserymen, Inc. These trees shall not be planted in the area of the front yard lying less than ten (10) feet from the street line. Such tree planting shall be indicated on the record map and shall be considered improvements for which the performance security as required in Section 3.08 of these regulations shall apply. (Effective 3/30/98)

4.06 Driveway and Parking Standards (effective 5/14/01)

4.06.100 Driveways shall be designed to accommodate essential service and emergency vehicles with minimum disturbance or alteration of the natural terrain and the indigenous character of the land. Proposed driveways shall be shown on the supplemental map submitted with the application and shall be designed and constructed so as not to cast water on the surface of any existing or proposed street and in compliance with Article IX of the Newtown Road Ordinance. Areas adjacent to the driveway must be graded to avoid erosion on or off the driveway. (Amended effective 5/14/01, 8/16/04)

4.06.110 All lots shall provide for off-street parking in accordance with the Zoning Regulations of the Town or Borough as applicable (amended effective 5/14/01).

4.06.111 The Commission may allow a lot having adequate street frontage to utilize a shared driveway with a neighboring lot in accordance with the common driveway provisions of Section 4.06.200, provided that the Inland Wetlands Commission has issued a written recommendation calling for a common driveway in order to avoid a wetlands disturbance or crossing for the driveway construction. (amended effective 5/14/01, amended effective 1/1/07)

4.06.120 Design Standards. Driveways shall meet the following standards (amended effective 5/14/01):

4.06.121 Driveway Intersection. All driveways shall intersect the street in a location having the sight distance required by Article IX of the Newtown Road Ordinance and shall intersect the street at right angles when possible. (Amended effective 8/16/04, 4/1/08)

4.06.122 Travel Width. The minimum travel width of the driveway shall be ten (10) feet. Driveways serving more than one dwelling shall at no point be less than sixteen (16) feet wide.

4.06.123 Loading Rates. All culverts and bridges located under a driveway shall be designed to carry H20 live loads.

4.06.124 Grading. The driveway grade shall be five (5) percent or less for the first thirty (30) feet measured in from the edge of the street. For the purpose of this regulation the term street shall apply to both public and private roadways. Driveways within the lot shall not contain grades greater than fifteen (15) percent nor average more than twelve (12) percent. Driveway sections having grades of twelve (12) percent or more shall be paved with bituminous concrete or other equal all-weather surface, including ten (10) feet preceding and following the twelve (12) percent or more grades (amended effective 4/1/08).

4.06.125 Parking Area. An area for parking shall be provided in the driveway within thirty (30) feet of a dwelling. Such parking area shall have a minimum length of thirty-five (35) feet and a grade of not more than five (5) percent.

4.06.126 Turning Radius. The minimum center turning radius on driveway curves shall be not less than thirty-seven (37) feet. Based on driveway configuration, the Town Engineer may determine that a turning radius greater than thirty-seven (37) feet is required for proper accessibility and safety. (Added effective 5/14/01, amended effective April 14, 2003).

4.06.127 Pull-Off Areas. Driveways longer than two hundred fifty (250) feet shall include a pull-off area to accommodate emergency vehicles. The minimum driveway width at pull-off areas shall be sixteen (16) feet wide and a minimum of twenty-five (25) feet long. The maximum distance between pull-off areas shall be two hundred fifty (250) feet. A common driveway of sixteen (16) feet in width shall be deemed to have met the requirements of this section.

4.06.128 Aprons. The entrance of the driveway at the street intersection shall be constructed in accordance with Article IX of the Newtown Road Ordinance. (Amended effective 5/14/01, 8/16/04)

4.06.130, 4.06.140, 4.06.150, 4.06.160, 4.06.170, 4.06.180, 4.06.190 repealed effective 5/14/01.

4.06.200 If the final subdivision plan proposes the creation of rear lots with access strips as permitted by Section 7.04.900 through 7.04.950 of the Newtown Zoning Regulations and two such strips adjoin each other, the supplemental map shall show, in addition to driveways wholly within each lot as required above, a single, common driveway constructed of bituminous concrete not less than 16 feet wide from the street to the point where the shorter of (or both of) the access strips terminate, together with turnouts to permit passage of emergency vehicles at such intervals as dictated by good engineering practice. The common driveway may be anywhere within the two access strips. The common driveway, drainage and associated landscaping shall be constructed by the subdivider as a subdivision improvement. The subdivider shall submit with the subdivision application an executed covenant and dedication establishing a cross easement on the shared access strips permitting ingress and egress by all lawful means and for all lawful

purposes in favor of each lot, together with a requirement that the owner of each lot will, after both lots are improved, share equally the cost of, at the minimum, plowing and pothole repair. A lot shall be considered improved if construction of a structure other than the common driveway has begun on the lot. (Amended effective April 1, 2008) (Amended effective July 29, 2013).

4.06.300 The Commission may require the subdivider to locate access strips to rear lots adjacent to each other in order to gain the benefits of the common driveway provisions. Any final subdivisions plan which contains adjoining access to rear lots shall show the common driveway as it is to be built. Such subdivision plans shall contain the following note for each set of adjacent access strips: Lots (insert lot#) and (insert lot#) share a common driveway. The owner of each such lot shall have the right to enter the access strip of the other lot for purposes of maintenance, repair or replacement of said driveway.

4.06.400 After a common driveway is constructed, separate driveways serving each lot shall not be built unless a special permit is issued by the Commission pursuant to the Newtown Zoning Regulations. (Effective 11/13/89)

4.07 Lot sizes and road frontages shall meet the requirements of the Zoning Regulations of the Town or Borough as applicable. Any lot in a proposed subdivision on which a building or other improvement is located shall meet the front, side and rear yard requirements of the Zoning Regulations of the Town or Borough as applicable, except where the inability to meet said requirements arises because of the relation of said existing buildings or improvements with an existing building or improvement with an existing street or property line. Side lot lines shall generally be at right angles to straight street lines, or radial to curved street lines. Except in cases of unusual topography property lines, through lots bounding on two generally parallel streets will not be permitted. No parcel, strip, blocking strip or other remnant of land incapable of being a minimum lot in the zoning district in which it lies shall be left in any subdivision.

4.08 The Applicant shall obtain the Selectman's approval of all proposed street names prior to submission of the application for final approval. Street names shall be shown on all applicable documents submitted to the Commission.

4.09 Stone or concrete monuments conforming to Town specifications shall be set at the street line at all points of curvature, points of tangency, single points and other intermediate points as may be required by the Town Engineer and monuments shall be as approved by the Town Engineer and set as directed by the Town Engineer at the subdivider's expense. The proposed location of said monuments shall be indicated on the final subdivision plan.

4.10 Where not otherwise marked as set forth in Section 4.09, lot corners shall be marked with iron pins at least 1/2" in diameter and set at least 18 inches in the ground, with part of said pin left visible above finished grade. Such pins and monuments specified in 4.09 shall be set prior to the conveyance of said lot by the subdivider or his assignee.

4.11 Adjoining subdivisions and sections thereof and subdivisions under the same ownership shall not duplicate lot numbers but shall continue the sequence of numbers used previously. Generally, all lots on north and east side of street shall be even numbers and south and west shall be odd numbers.

4.12 All documents required to be completed by a registered land surveyor, professional engineer or landscape architect shall bear the appropriate seal and certification. (Amended effective August 30, 2004)

4.13 Subdivision Plans Approved Under Prior Regulations

4.13.100 Subdivision plans of 10 or more lots approved more than three years prior to October 2, 1967, must be submitted to the Commission for re-approval if 40% or more of the lots therein remain in single ownership, and such plans which have been approved within three years prior to October 2, 1967, or approved after October 2, 1967 by virtue of Section 8-28b of the Connecticut General Statutes (Rev. 1958), shall be submitted to the Commission for re-approval three years after original approval if 40% or more of the lots therein remain in single ownership at the end of said three year period.

4.13.200 Subdivision plans required to be submitted to the Commission in accordance with Subsection 4.13.100 above need conform only to the following requirements:

4.13.210 Unsold lots shall meet the requirements of Sections 2.03, 2.04, 4.03.200, 4.05.100, 4.05.300, 4.06.100, 4.07, 4.10 and 4.12;

4.13.220 If the streets in said subdivision have not been fully completed in accordance with the Newtown Road Ordinance existing at the time approval was originally granted, then any street not so completed must meet the requirements of Section 4.0 and 4.09;

4.13.230 Utilities shall be installed in accordance with Section 4.04 hereof where they have not already been installed above ground to serve any part of such subdivision.

4.13.240 Where all of the lots in such a subdivision remain in single ownership, then said subdivision shall also conform to the requirements of Sections 4.02, 4.03.100 and 4.05.200.

4.13.300 For purposes of determining whether or not lots in a subdivision are in single ownership, a person, partnership or corporation owning land in a subdivision shall be considered as owning:

4.13.310 All the land which it owns, controls or has a right to control, either directly or indirectly, individually or in conjunction with others; and

4.13.320 All land which was conveyed with the intent to avoid complying with this section; and

4.13.330 In the case of a corporation, all the land which is owned or controlled directly or indirectly by any of the following persons or corporations, or in which any of the following persons or corporations have an interest;

4.13.331 Shareholders, whether corporate or individual, of said selling corporation;

4.13.332 Shareholders of any corporation shareholders, or of any corporation in the corporate chain of share ownership;

4.13.333 The partner or partners of any individual shareholders in 4.13.331 or 4.13.332 above; and

4.13.334 Any corporation controlled, directly or indirectly by one or more of any of the above persons or corporations.

4.14 Subdivisions plans which were not and are not filed with the Town Clerk within 90 days after receiving approval and subdivision plans filed with the Town Clerk prior to February 8, 1956 are not, and shall not be, considered as approved subdivision plans.

4.15 Waiver of Subdivision Regulations

4.15.100 Where the Commission finds that strict compliance with these regulations would cause extraordinary hardship to:

4.15.110 An Applicant seeking re-approval of a subdivision pursuant to Section 4.13 hereof, or

4.15.120 An Applicant seeking approval of a subdivision, any part of which was shown on a map filed in the Town Clerk's office prior to February 8, 1956, and for which any building permit has been issued prior to October 2, 1967, with regard to any lot contained therein, it may permit a variation from the sections hereof with which said subdivision would otherwise have to comply. The Commission shall be guided by the amount and nature of the work done in subdivision prior to October 2, 1967, and by whether and to what extent full compliance with these regulations would deprive the subdivider of the benefit of funds prudently invests in said subdivision prior to said sale.

4.15.200 No variation granted pursuant to subsection 4.15.100 above all shall have the effect of nullifying the intent and purpose of these regulations or of the Zoning Regulations. In granting any such variation, the Commission shall attach such conditions as in its judgment may be necessary to fulfill substantially the requirements of these regulations, and it shall state in its minute the reason for granting any such variation.

4.15. 300 When the Commission finds that extraordinary hardships or practical difficulties may result from compliance with these Regulations, the Commission may, by a 3/4th vote of all members, approve waivers to these Regulations, provided that such waivers shall not conflict with the intent and purposes of these Regulations. The Commission shall state upon its records the reason for which a waiver is granted in each case (added effective January 16, 2012).

4.15.310 The Commission shall not approve a waiver unless it finds in each specific case that:
(1) The granting of a waiver will not have a significant adverse impact on adjacent property or on public health and safety; and

(2) The conditions upon which the request for a waiver are based are unique to the proposed subdivision for which the waiver is sought and are not applicable generally to other potential subdivision; and

(3) The waiver will not create a conflict with the provision of the Zoning Regulations, the Plan of Conservation and Development, town ordinances, or regulations of other Town boards and commissions. (added effective January 16, 2012)

4.15.320 A request for any such waiver shall be presented in writing by the applicant at the time when the subdivision application is first submitted. The request shall state how the proposed waiver meets the requirements stated above. Any waiver granted shall not be a precedent for any future waiver, and the Commission may attach any reasonable condition to the grant of the waiver. (added effective January 16, 2012).

4.16 Voluntary Relinquishment of Approved Subdivision Plan and Reversion of Lots to Acreage.

4.16.100 Any owner of two or more contiguous lots who desires to combine lots into a single lot so as to destroy their separate identity, may do as set forth in Subsection 4.16.200 below.

4.16.200 Such combination shall be considered effective and the individuality of the lots so combined considered destroyed when all of the lots so combined are conveyed to another by a deed which describes the property by reference to a survey showing only the perimeter of the resulting lot or lots and said deed and the map to which it refers are recorded in the Newtown Town Clerk's Office. Thereafter, said land may not be divided without resubdivision approval.

ARTICLE V

OPEN SPACE CONSERVATION SUBDIVISIONS – Revised 10/6/11, 10/19/11, 10/25/11, 11/8/11

5.01 Applicability:

5.01.100 Any proposed residential subdivision of a parcel(s) of land located within an R-1, R-2 and R-3 zone is eligible to apply for an Open Space Conservation Subdivisions (OSCS).

5.02 Pre-Application Review

5.02.100 Applicants are encouraged to request a pre-application review by the Commission. ~It is expected that applicants will identify to the Commission the unique features of the parcel that make it a candidate for an OSCS. Applicants are encouraged to review the materials listed herein and the zoning regulations and to provide enough information for the pre-application review that will assist the Commission's understanding of the unique features that will be preserved with development and its relationship to the neighborhood (Added effective August 30, 2004).

5.02.200 Nothing that is said or presented at the pre-application review by any party shall be considered evidence and shall not be binding on the Commission in any subsequent application presented to the Commission (Added effective August 30, 2004).

5.03 Application Requirements and Procedures

5.03.100 An application for an open space conservation subdivision (OSCS) shall be subject to the application procedures, substantive provisions and administrative requirements for final approval of a subdivision plan as set forth in the Newtown subdivision regulations and, in addition, is subject to the provisions and materials outlined herein (Added effective August 30, 2004).

5.03.200 If the Commission determines that certain provisions of this Article V for the development of an OSCS conflicts with Article IV, Substantive Provisions, the provisions of Article V shall take precedence over the provisions of Article IV (Added effective August 30, 2004).

5.04 OSCS Design Standards

5.04.100 The following additional standards and considerations are intended to govern the design of an OSCS to reduce site disturbance, preserve or enhance scenic vistas, farm lands, passive or active recreational facilities, increase the provision of open space areas and to provide adequate provisions for storm water management, potable water supply and waste water treatment (Added effective August 30, 2004).

5.04.110 The amount of disturbance such as site grading, vegetative and rock wall removal shall be minimized insofar as practicable to preserve worthy land characteristics and lessen the likely impact on environmental systems such as areas of steep topography, significant wetland areas, groundwater, watercourses, and vegetative and wildlife communities (Added effective August 30, 2004);

5.04.120 Changes in site grades shall be in keeping with the general appearance of the neighboring developed areas (Added effective August 30, 2004);

5.04.130 The orientation of individual buildings shall be such so as to maintain maximum natural topography and cover, and shall encourage energy efficient patterns of development, energy conservation, and the use of renewable forms of energy.

5.04.140 Street locations and design shall be such so as to maintain and preserve the natural topography, natural drainage ways, significant landmarks and trees (greater than 24 inch circumference), minimize cut and fill, preserve and enhance views and vistas on or off the subject parcel and shall not create a health or safety hazard within the site or on any existing public streets (Added effective August 30, 2004);

5.04.150 The overall development shall be such so as to preserve historic or archaeological features existing on the site or to enhance such features in the immediate vicinity of the site (Added effective August 30, 2004);

5.04.160 All development shall, be designed to minimize the construction of impervious surfaces (Added effective August 30, 2004);

5.04.170 The development shall use natural drainage systems and low impact, non-structural, storm water management techniques. ~The storm water system design shall be supported by an engineered storm water management plan, shall address the quality of the storm water runoff and shall utilize best engineering practices and best management practices(Added effective August 30, 2004);

5.04.180 The streetscape design shall consider the public's view from the public right of way as well as the conservation and preservation of the sites natural landscape characteristics (Added effective August 30, 2004);

5.04.190 The provisions for potable water, waste water, storm water and surface drainage systems, and other utilities shall not create a health or safety hazard to persons or property on or off the lot(s) proposed for development and shall be consistent with applicable local and state regulations; (Added effective August 30, 2004);

5.04.200 DELETED

5.04.200 Where applicable to maintain the general character of the OSCS, setback requirements may be recorded as deed restrictions for each approved lot to ensure future continuity of design. (Added effective August 30, 2004);

5.05 Streets, Sidewalks and Driveways

5.05.100 Streets and driveways shall be provided to furnish safe and convenient access to all dwellings and any other facilities within the subdivision and shall conform to the provisions of the Newtown Road Ordinance. ~(Added effective August 30, 2004);

5.05.200 The Commission may approve the use and designation of common driveways where necessary to provide access to two (2) or fewer dwellings. ~A pavement width of eighteen (18) feet may be provided for such common driveways provided that all other specifications of the zoning regulations and Newtown Road Ordinance are met.

5.05.300 An association of property owners, or other mechanism satisfactory to the Commission, shall be established with the authority and financial capability to service and maintain any common driveways and associated private drainage systems within the development. ~The OSCS plans shall contain the following note for each common driveway: ~"Lots (insert lot #'s) share a common driveway." ~The owner of each such lot, or association as applicable, shall have the right to enter the access strip of the other lot for purposes of maintenance, repair or replacement of said driveway and drainage system created as a result thereof. (Added effective August 30, 2004);

5.05.400 On-site concrete sidewalks shall be designed as appropriate to link residences within the OSCS and with recreation facilities, trails, open space areas and adjacent land uses.

5.06 Landscaping

5.06.100 A detailed landscaping plan at a scale of not less than forty feet to the inch (1"=40'), prepared by a landscape architect licensed to practice in the State of Connecticut, shall be submitted with the application and shall address the following requirements. : (Added effective August 30, 2004);

5.06.110 The Landscaping plan shall include:

- the manner in which stone walls, rock outcroppings, watercourses and wetlands, large trees (greater than 24" caliper), wooded areas by foliage lines, significant views and other special site attributes shall be incorporated into the landscape design of the proposed subdivision. (Added effective August 30, 2004);
- the manner in which the areas preserved for permanent open space shall relate to the developed portions of the proposed subdivision and to existing or proposed open space areas, trails and greenways. (Added effective August 30, 2004);
- the location of all significant trees (greater than 24: caliper) and significant vegetation in the areas of the proposed subdivision affected by development and the manner in which this vegetation shall be protected. (Added effective August 30, 2004);
- a streetscape plan for the developed portions of the proposed subdivision. (Added effective August 30, 2004);
- the type, size, location and amount of all proposed plantings. ~Non-native invasive and potentially invasive plant species listed and updated annually by the Center for Conservation and Biodiversity at the University of Connecticut shall not be allowed, also an invasive plant removal plan shall be included. ; and
- a landscape maintenance plan for the common areas within the proposed subdivision. (Added effective August 30, 2004);

5.07 OSCS Open Space

5.07.100 Ninety-five percent (95%) of the open space resulting from the approval of an OSCS shall be used for wildlife habitat, natural resource conservation, historic and archaeological preservation and shall not be fenced. The remainder of protected open space (one acre minimum or 5% , whichever is more) resulting from the approval of an OSCS may be served by suitable access and ancillary support facilities for recreational purposes such as a clubhouse, swimming pool, or sports fields for the exclusive use of the residents of the OSCS.

5.07.200 Where appropriate, the design of the OSCS shall promote the creation of greenways and trails that provide linkage to existing and proposed parks, open space, greenways and trails. (Added effective August 30, 2004);

5.07.300 When possible, open space shall be contiguous. ~Open space will be considered contiguous if it is separated by a roadway or an accessory amenity. The Commission may waive this requirement for all or part of the required open space where it is determined that allowing non-contiguous open space will promote the purposes set forth in Section 5.07.100 herein. (Added effective August 30, 2004);

5.07.400 The applicant shall propose the method(s) desired to preserve designated open space within the OSCS from future development and shall submit with the application the necessary legal instrument(s) designed to ensure that designated open space lands shall be preserved.

5.07.500 The Commission shall approve or reject, at its discretion, the method(s) proposed by the applicant for the preservation of OSCS open space. If the method(s) of open space preservation proposed by the applicant is rejected by the Commission, the Commission may determine an alternative method of preservation. (Added effective August 30, 2004);

5.07.510 Methods of OSCS open space preservation acceptable to the Commission include the following: (Added effective August 30, 2004);

(1) Deeded in fee simple to the Town of Newtown;

(2) Deeded in fee simple to a land trust or other non-profit organization dedicated to the conservation of open space

(3) Deleted

~~(3)~~ (4) Held in single, partner, or corporate ownership by the property owner(s) subject, however, to the transfer of development rights to the Town of Newtown, a land trust or other non-profit organization dedicated to the conservation of open space or some other method of preserving the reserved open space from future development; and

~~(4)~~ (5) Held in common by a homeowners association incorporated as a not-for-profit corporation in the State of Connecticut, subject, however, to legally binding arrangements that shall include the recording of restrictive deed covenants, the conveying of conservation easements, or the transferring of development rights to the Town or land trust or other non-profit organization dedicated to the conservation of open space, that preserves the reserved open space from future development.

5.07.600 Community potable water systems and community waste water systems serving an OSCS may be located within the 5 % privately owned recreational open space areas. Individual wells and septic systems, including reserve areas shall be located on the same lot as the residence for which it is designated to serve. (Added effective August 30, 2004);

5.07.700 Storm water management systems serving an OSCS may be located within the 5% privately owned recreational open space areas provided easements are given to the Town of Newtown where such systems are located on private property. (Added effective August 30, 2004);

5.07.800 All deeded owners of the Open Space shall have the responsibility for Open Space maintenance.

5.08 Additional Application Requirements

5.08.100 Applicable legal instruments for open space, community water supply and/or waste water systems, common driveways, and storm water systems as approved by the Commission shall be submitted with the OSCS application. (Added effective August 30, 2004);

5.08.110 Applicable legal instruments shall be subject to approval by the Town. Such instruments shall be designed to: (Added effective August 30, 2004);

- (1) Ensure the continued use, funding and maintenance of common areas, open space, community water supply and/or waste water systems;
- (2) Provide for adequate insurance coverage for common areas, private open space, community water supply and/or waste water systems, and storm water systems;
- (3) Provide that the Town of Newtown's agents or employees may enter upon the common areas or open space lands to remove or correct any object or condition which may be deemed a nuisance, a violation of these regulations or which presents an emergency; and
- (4) Provide that the Town of Newtown may take legal action to enforce the terms and provisions of the approved legal instruments.

5.09 **Totally removed**

ARTICLE VI - RESUBDIVISION

6.01 The procedure for a resubdivision and the requirements for its application are the same as a normal subdivision with one exception, as follows:
No plan of resubdivision shall be acted upon by the Commission without a public hearing. Notice of the public hearing shall be given by publication in a newspaper having general circulation within the Town of Newtown in accordance with the publication requirements of the General Statutes of Connecticut (Rev. 1958) for resubdivision hearings, and by sending a copy of such notice by certified mail to the Applicant.

6.02 Approval

6.02.100 After such public hearing the Commission may approve, disapprove, or modify said application in accordance with Section 8-26 of the Connecticut General Statutes, as amended from time to time.

6.02.200 Where more than half of the lots in the subdivision being re-subdivided have been sold, the application for resubdivision shall not be approved if the lots as shown on said resubdivision plan are substantially smaller in size than the typical lot originally established by the existing subdivision or resubdivision, even though such lots meet the area requirements and the Zoning Regulations of the Town or Borough as applicable.

ARTICLE VII - ADMINISTRATION

7.01 Penalties

Connecticut General Statutes, Section 8-25 (a) as amended, provided: Any person, firm or corporation making any subdivision of land without the approval of the Commission shall be fined not more than five hundred dollars for each lot sold, or offered for sale or so subdivided, and further that any person, firm or corporation who, prior to approval, sells or offers for sale any lot subdivided shall be fined not more than five hundred dollars for each lot sold or offered for sale. The Zoning Enforcement officer is authorized to commence such actions as may be necessary to enforce said regulations and statutes and collect said fines on behalf of the Town.

7.02 First Division of Property

7.02.100 The Zoning Enforcement Officer, unless otherwise directed by the Planning and Zoning Commission, is authorized to stamp Approved For Filing reflecting the first division of property meeting the corresponding zoning district requirement and the zoning permit application requirements contained in the Zoning Regulations Section 9.01.400 providing that said first division, or cut, is the only division made of premises since the enactment of subdivision regulations adopted, effected February 8, 1956, and providing that no accessway is involved, for only the Planning and Zoning Commission has authority to authorize such accessways under the provisions of the Zoning Regulations pursuant to Section 7.04.100. (Amended effective April 1, 2008)

7.02.200 All applications for first division of property pursuant to Section 7.02.100 shall be accompanied by:

7.02.210 Original and three copies of a Class A2 survey map prepared by a land surveyor licensed by the State of Connecticut showing the desired "first cut" surveyed wetlands and watercourses, and FEMA 100-year flood plains. In addition, the applicant shall deliver, an electronic copy of such survey map, for purposes of adding the approved "first cut" to the Town's Geographic Information System (GIS). The electronic copy shall meet the following criteria:

1. Drawings shall be on a compact disk (CD)
2. Electronic drawings shall be in a format as prescribed by the Town's GIS coordinator.
3. Electronic drawings shall be accompanied by a certification letter that the electronic drawing is a copy of the survey that was approved by the Zoning Enforcement Officer for recording in the office of the Town Clerk. A land surveyor licensed by the State of Connecticut shall certify the letter. (Amended, effective April 14, 2003)

7.02.220 Affidavit attesting that, following title research performed by the Applicant's attorney, the proposed division of property is the first such division or cut being made since enactment of subdivision regulations.

7.02.230 All deeds conveying voluntary road widening easements for slope rights and drainage, etc.

7.02.240 Copy of recorded Zoning Board of Appeals variances, as applicable.

7.02.300 If the proposed first division parcel is to be served by an accessway, the approval or disapproval thereof shall be by action of the Planning and Zoning Commission.

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7.03 Validity

If any section, subsection, sentence, clause, phrase or any portion of these regulations is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

7.04 Appeals

Any person aggrieved by an official action of the Commission may appeal therefrom within fifteen (15) days of the publication of such official action to the Court of Common Pleas for Fairfield County.

7.05 Effective Date

These regulations shall become effective April 25, 1987.

7.06 Repealer

Previous subdivision regulation dated March 13, 1981, and all amendments hereto are hereby repealed.

7.07 Amendments

The Commission may from time to time alter or amend these regulations in accordance with the procedure by the Connecticut General Statutes.