Town of Newfield Subdivision Ordinance

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ARTICLE I
PURPOSES

The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Newfield, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Newfield, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. Chapter 187, subchapter 4, § 4004. The subdivision:

1.1 Will not result in undue water or air pollution. In making this determination, the Board shall at least consider:

A. The elevation of the land above sea level and its relation to the flood plains;

B. The nature of soils and subsoils and their ability to adequately support waste disposal;

C. The slope of the land and its effect on effluents;

D. The availability of streams for disposal of effluents and

E. The applicable state and local health and water resource rules and regulations;

1.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision;

1.3 Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;

1.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

1.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;

1.6 Will provide for adequate solid and sewage waste disposal;

1.7 Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;

1.8 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

1.9 Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

1.10 The subdivider has adequate financial and technical capacity to meet the standards of this section;

1.11 Whenever situated in whole or in part, within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter 1, article 2-B. The proposed subdivision will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal highwater mark of 500 feet.

1. To avoid circumventing the intent of this provision whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

2. The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38,chapter 3, subchapter 1,article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definition requirements of section 4401, subsection 1, on September 23, 1983.

1.12 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

1.13 Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that all principal structures within the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

1.14 All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;

1.14A All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

1.15 Any river, stream, or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

1.16 The proposed subdivision will provide for adequate storm water management;

1.17 If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 3 to 1;

1.18 The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

1.19 For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

1.20 Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

ARTICLE II
AUTHORITY And ADMINISTRATION

2.1 Authority

A. These standards have been prepared in accordance with the provisions of Title 30 A M.R.S.A., Chapter 187, subchapter 4 § 4403

B. These standards shall be known and may be cited as "Subdivision Regulations of the Town of Newfield, Maine."

2.2 Administration

A. The Planning Board of the Town of Newfield, hereinafter called the Board, shall administer these standards.

B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined in Title 30-A M.R.S.A., Chapter 187, subchapter 4, § 4401, within the boundaries of the Town of Newfield.

ARTICLE III
DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space owned in common by lot unit owners, the Town, or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these regulations for a Final Plan, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

Comprehensive Plan or Policy Statement: Any part or element of the overall plan or policy for development of the municipality as defined in Title 30 M.R.S.A., Section 4961.

Contiguous Lots: Lots which adjoin at any line or point or are separated at any point by a body of water less than fifteen feet wide.

Developed Area: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

Driveway: A vehicular access-way serving two dwelling units or less.

Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

Final Plan: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

High Intensity Soil Survey: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

100 Year Flood: The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one percent chance of occurring in any year).

Normal High Water Elevation of Inland Waters: That line on the shores of banks on nontidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: Water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups:

upland grasses, aster, lady slipper, wintergreen, partridgeberry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high watermark cannot be easily determined, (rockslides, ledges, rapidly eroding or slumping banks) the normal high water elevation shall be estimated from places where it can be determined by the above method.

Industrial Park or Development: A subdivision in an area zoned exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

Net Residential Acreage: The total acreage available for the subdivision, and shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development as outlined in Section 10.3.

Net Residential Density: The average number of dwelling units per net residential acre.

Official Submittal Date: The date upon which the Board issues a receipt indicating a complete application has been submitted.

Person: Includes a firm, association, organization partnership, trust, company, or corporation, as well as an individual.

Planned Unit Development: A development controlled by a single developer for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treats the developed area in its entirety to promote the best use of land, including the creation of open space, a reduction in the length of road and utility systems, and the retention of the natural characteristics of the land.

Planning Board: The Planning Board of the Town of Newfield, created under Title 30 M.R.S.A., 4964.

Preliminary Subdivision Plan: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds, and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Solar Collector: A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes to a building's energy supply.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

Street: Public and private ways such as alleys, avenues, boulevards, highways, roads, and other rights -of-way, as well as areas on subdivision plans designated as rights-of-way.

Street Classification:

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets:

Maine Route 11
Maine Route 110

Collector Street: A street servicing at least fifteen lots or dwelling units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Minor Street: A street servicing less than fifteen lots or dwelling units.

Private Right of Way: A vehicular accessway serving between three and eight dwelling units.

Subdivision: The division of a tract or parcel of land into three or more lots within any five-year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood marriage or adoption, unless the intent of such gift is to avoid the objectives of these regulations, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of these regulations.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel unless otherwise exempted herein, shall be considered to create the first two lots and the next dividing of either of said first two lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both such divisions are accomplished by a subdivider who shall have retained one of such lots for his own use as a single family residence for a period of at least five years prior to such second dividing. Lots of forty or more acres shall not be counted as lots.
For the purposes of these regulations, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

Subdivision, Major: Any subdivision containing five or more lots or dwelling units, or any subdivision containing a proposed street.

Subdivision, Minor: Any subdivision containing not more than four lots or dwelling units, and in which no street is proposed to be constructed.

Tract, or Parcel, of Land: All land contiguous in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream or a private road established by the abutting land owners.

ARTICLE IV
ADMINISTRATIVE PROCEDURE

4.1 Purpose: The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.

4.2 Agenda: In order to avoid unnecessary delays in processing applications for subdivision review. The Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

ARTICLE V
PRE-APPLICATION

5.1 Procedure:

A. Applicant presentation and submission of sketch plans.

B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.

C. Scheduling of on-site inspection.

5.2 Submission: The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor 's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision unless the proposed subdivision is less than ten acres in size.

5.3 Contour Interval and On-Site Inspection: Within thirty days, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision and hold an on-site inspection of the property. However, no on-site inspection shall be held while there is snow on the ground.

5.4 Rights not Vested: The submittal or review of the pre application sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., §302.

ARTICLE VI
MINOR SUBDIVISIONS

6.1 General: The Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements *for* a Major Subdivision.

6.2 Procedure:

A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee payable by check to the municipality. Fee determined by the Board of Selectmen after a public hearing and set forth in a schedule of fees posted at the town office. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the additional costs of advertising and postal notification.

C. The subdivider shall certify to the Board that all owners of abutting property have been notified by certified mail that an application for subdivision approval has been submitted to the Board.

D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.

F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.

G. Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

6.3 Submissions:

A. The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office and three copies of one or more maps or drawings drawn to a scale of not

more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted.

The application for approval of a Minor Subdivision shall include the following information:

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.

2. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed l and surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

3. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, *or* other encumbrances currently affecting the property.

4. A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.

5. Test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

6. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner; subdivider, and individual or company who prepared the plan, and the names of adjoining property owners.

7. A copy of the portion of the county Soil Survey covering the subdivision.

8. Contour lines at the interval specified by the Planning Board, but no more than twenty feet, showing elevations in relation to Mean Sea Level.

9. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

10. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer, and:

    a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and *Gravel* Aquifers", by the Maine Geological Survey, 1985, Map No. 3.;

    b. The subdivision contains lots less than 100,000 square feet in total area; *or*

    c. The subdivision has an average density of less than 100,000 square feet per dwelling unit.

ARTICLE VII

PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1 Procedure:

A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. All applications for Preliminary Plan approval for a Major Subdivision Shall be accompanied by an application fee per lot or dwelling unit, as may be determined by the Board of Selectmen after a public hearing, payable by check to the municipality. In addition, the applicant shall pay a fee per lot or dwelling unit as may be determined by the Board of Selectmen after a public hearing, to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant, and require that an additional fee per lot or dwelling unit, as may be determined by the Board of Selectmen after a public hearing and set forth in a schedule of fees posted at the town office, to be deposited by the applicant. The Board shall continue to notify the applicant and require an additional fee per lot or dwelling unit, as may be determined by the Board of Selectmen after a public hearing, to be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a final decision on the subdivision application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.

D. The subdivider shall certify to the Board that all owners of abutting property have been notified by certified mail that an application for subdivision approval has been submitted to the Board.

E. Within thirty days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.

F. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.

G. The Board shall, within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify

in writing its findings of facts and reasons for any conditions or denial.

H. When granting. approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:

1. The specific changes which it will require in the Final Plan;

2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and

3. The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan;

I. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

7.2 Submissions:

A. Location Map. The Preliminary Plan shall be accompanied by a Location Map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision.

2. Locations and names of existing proposed streets.

3. Boundaries and designations of zoning districts.

4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.

B. Preliminary Plan. The Preliminary Plan shall be submitted in three copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch. The Board may allow plans for subdivisions containing more than one hundred acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.

2. An actual field survey of the boundary lines of the tract giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

3. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

4. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.

5. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.

6. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features.

7. Test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

8. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.

9. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.

10. The location of any zoning boundaries affecting the subdivision.

11. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

12. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

13. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan if any, within the subdivision.

14. The proposed lot lines with approximate dimensions and lot areas.

15. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

16. The location of any open space to be preserved and an indication of Its improvement and management.

17. A soil erosion and sedimentation control plan endorsed by the County Soil and Water Conservation District.

18. A plan for the disposal of surface drainage waters, prepared by a Registered Professional Engineer.

19. A copy of that portion of the county Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a Registered Soil Scientist indicating the suitability of soil conditions for those uses.

20. If any portion of the subdivision is io a flood-prone area, the boundaries of any flood hazard areas and the 1 00-year flood elevation shall be delineated on the plan.

21. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and

    a. Any part of the subdivision is located over a sand and gravel aquifer. as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers", by the Maine Geological Survey, Map No. 3;

    b. The subdivision contains lots less than 100,000 square feet in total area; or

    c. The subdivision has an average density of less than 100,000 square feet per dwelling unit .

ARTICLE VIII

FINAL PLAN FOR MAJOR SUBDIVISION

8.1. Procedure:

A. The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.

B. All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee per lot or dwelling unit payable by check to the municipality. Fee to be determined by the Board of Selectmen after a public hearing and set forth in a schedule of fees posted at the town office. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

D. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.

E. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:

1. Maine Department of Environmental Protection, under the Site Location of Development Act, Great Ponds Act, Freshwater Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.

2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.

3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.

F. A public hearing may be held by the Planning Board within thirty days after the issuance of a receipt for the submission of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing.

When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.

G. The Planning Board may notify the Road Commissioner, School Superintendent, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Planning Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

H. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XII.

I. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.

J. The Board, within thirty days from the public hearing or within sixty days of receiving complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30-A, M.R.S.A. Chapter 187, subchapter 4,§ 4004 and in these regulations. If the Board finds that all standards of the Statute and these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute and these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2. Submissions:

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. The Board may allow plans for subdivisions containing more than one hundred acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border line on the left side for binding and a one- inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Offices, and three copies of the plan shall be submitted. The subdivider may, instead, submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with three copies of the Final Plan.

The application for approval of the Final Plan shall include the following information:

A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.

B. An actual field survey of the boundary. lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.

C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.

D. Evidence of adequate ground water supply and quality shall be submitted by a written statement from either a well driller or a hydrogeologist familiar with the area.

E. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.

F. The location of any zoning boundaries affecting the subdivision.

G. The location and size of existing and proposed culverts and drainage ways on or adjacent to the property to be subdivided.

H. The location, names, and present width of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.

I. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.

J. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.

K. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

Schools, including busing
Street maintenance and snow removal
Fire protection
Solid waste disposal
Recreation facilities
Storm water drainage

The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

L. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

8.3 Approval and Filing:

A. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.

B. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. Chapter 187, subchapter 4,§ 4004 and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.

C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board may require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the Plan to be divided into sections to prevent classroom overcrowding.

D. No changes. erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Section 9.1.C. The Board shall make findings that the revised plan meets the standards of Title 30, M.R.S.A. §4956, subsection 3, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas.

The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

F. Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE IX
ENFORCEMENT

9.1 Inspection of Required Improvements:

A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall notify the Planning Board or their designee in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.

C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.

D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.

E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.

F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

9.2 Violations and Enforcement:

A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.

B. No person, firm, corporation, or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

C. No person, firm, corporation, or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.

D. Any person, firm, corporation, *or* other legal entity who conveys, offers, or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than $100, and not more than $2500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section and may collect attorneys' fees and court costs if it is the prevailing party.

E. No public utility, water district, sanitary district, any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.

F. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in these regulations and recorded in the Registry of Deeds.

G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed Is completed in accordance with these regulations

ARTICLE X

GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

10.1 Conformance with Comprehensive Plan: All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

10.2 Retention of Open Spaces and Natural or Historic Features:

A. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic *or* passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

B. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.

C. The Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 24" inches diameter breast height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.

10.3 Lots:

A. All lots shall meet the minimum requirements of the Zoning Ordinance for the zoning district in where they are located. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation.

B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.

C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.

D. Wherever possible, side lot lines shall be perpendicular to the street.

E. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future resubdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.

F. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.

G. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

H. The ratio of lot length to width shall not be more than three to one.

I. Non-waterfront lots sharing a common waterfront lot. shall be limited in number to one lot for each 20 feet of shoreline in the common lot.

10.4 Utilities:

A. Underground utilities shall be installed prior to the installation of the final gravel base of the road.

B. The size, type and location of streetlights, electric lines, telephone, and other utilities shall be shown on the plan and approved by the Board.

10.5 Required Improvements: The following improvements are required for all subdivisions unless waived by the Board In accordance with provisions of these regulations.

A. Monuments:

1. Stone or concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.

2. Stone or concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.

3. Stone monuments shall be a minimum of four inches square at the top and four feet in length and set in the ground at final grade level. After they are set, drill holes, 1/2 inch deep shall locate the point or points described above. Concrete monuments shall be Portland cement reinforced with 1/2" reinforcement are, either four inches square or four inches in diameter, or they may be a Portland cement filled steel pipe no less than three inches in diameter, four feet in length and set in ground at final grade.

4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation.

B. Water Supply:

1. A minimum of one gallon per minute of water meeting the Maine Primary Drinking Water Standards and Secondary Drinking Water Standards shall be available on each lot at a depth not exceeding 400 feet. Any costs exceeding drilling beyond 400 feet shall be borne by the applicant for period of five years from Final Plan approval provided the well driller is approved by the applicant. in writing, prior to the start of drilling.

2. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).

C. Sewage Disposal:

1. The developer shall submit evidence of soil suitability for subsurface sewage disposal. for each lot, prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

2. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

D. Surface Drainage:

1. Where a subdivision is traversed by a stream, river, or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a Registered Professional Engineer.

2. Drainage easements for existing watercourses or proposed drainage ways shall be provided and indicated on the plan at least thirty feet wide, conforming substantially with the lines of existing natural drainage.

3. The developer shall provide a statement from the designing engineer that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or in other properties. Where the peak runoff from the subdivision onto other properties is increased either in volume or duration, easements from the abutting property owners, allowing such additional discharge shall be obtained.

4. A storm water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, meeting the standards of Section 11.4, shall be submitted.

10.6 Land Features:

A. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

B. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.

C. To prevent soil erosion of shoreline areas, tree cutting in a strip paralleling the shoreline of a waterbody, and extending one hundred feet inland from all points along the normal high-water mark shall be limited in accordance with the following:

1. No more than 30% of the length of the strip shall be clear-cut to the depth of the strip.

2. Cutting of this 30% shall not create a clear-cut opening greater than thirty feet wide.

3. In the remaining 70% length of the strip, no trees larger than four inches diameter at breast height shall be cut, and sufficient cover to preserve natural beauty and control erosion shall remain.

10.7 Cluster Developments:

A. Purpose:

The purpose of these provisions is to allow for innovative concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted in the Zoning District in which the development is proposed. To this end, the layout, and dimensional requirements of the Zoning Ordinance may be altered without restriction except height limitations.

B. Basic Requirements:

1. All the requirements and standards of these regulations, except those dealing with lot layout and dimensions shall be met.

2. The minimum area of land in a cluster development shall be ten acres.

3. The plan shall indicate the location of all proposed roads, structures, parking areas, footpaths and common open space.

4. No building shall be constructed on soil types classified by the S.C.S.as being poorly or very poorly drained.

5. Where a cluster development abuts a waterbody, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land.

6. In cluster development with individual lot sizes of 20,000 sq. ft. or less, all dwelling units shall be connected to a common water supply and distribution system.

7. In cluster developments with individual lot sizes of 20,000 sq. ft. or less, all dwelling units shall be connected to a central collection and treatment system.

8. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes, and natural drainage areas, in accordance with an overall plan for site development and landscaping.

10.8 Dedication and Maintenance of Common Open Space and Services:

A. All common land shall be owned jointly or in common by the owners of the dwelling units by means of a home-owners association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the municipality.

B. Further subdivision of the common land or its use *for* other than non-commercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.

C. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that:

1. It shall not be used for future building lots; and

2. A part or all of the common open space may be dedicated for acceptance by the municipality.

D. If any or all of the common open space and services are to be reserved for use by the residents, the by-laws of the proposed homeowner's association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.

E. Covenants for mandatory membership in the homeowner's association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.

F. The homeowner's association shall have the responsibility of maintaining the common property.

G. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.

H. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

10.9 Construction in Flood Hazard Areas:

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

10.10 Impact on Groundwater:

A. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

1. A map showing the basic soils types.

2. The depth to the water table at representative points throughout the subdivision.

3. Drainage Conditions throughout the subdivision.

4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.

5. An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision. at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations shall also be provided.

6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

B. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

C. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards. ·

D. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.

E. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

F. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

G. The Board shall require lot sizes larger than required by the Zoning Ordinance, or lower residential density than allowed by the Zoning Ordinance, where completion of the following formula indicates such lot sizes or densities are necessary in order to meet the standards above.

$$d = (q)\,(CNitrate\text{-}Cb) + (Cs)(qs)$$

d is the allowable housing density In dwellings per acre

q is the rate of natural groundwater recharge, averaged over the year in gpm/acre; some representative numbers, based on soil types are:

glaciomarine clay-silt	0.11
thick silty clay	0.23
thin soil over rock	0.33
till over rock (<2' thick)	0.34
(2' -5' thick)	0.57
sandy glacial till (>5' thick)	0.57
silty glacial till (>5' thick)	0.23
glaciomarine fine sands	0.91
raised beach deposits	1.16
sand and gravel	1.16

Cntirate is the maximum acceptable resultant concentration of nitrate-nitrogen in ground water as a result of subsurface sewage disposal systems, 5 mg/I.

Cb is the background concentration of nitrate-nitrogen in groundwater.

Cs, is the nitrate-nitrogen concentration in typical septic tank discharge, 30 mg/I.

qs is the average leach field discharge rate per dwelling, which is equal to 70% of 300 gallons per day or 0.15 gal/min

ARTICLE XI
STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS

11.1 General Requirements:

A. The Board shall not approve any subdivision plan unless proposed streets and stormwater management systems are designed in accordance with any local ordinance, or the specifications contained in these regulations. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.

B. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets. The plans shall include the following information:

1. Date, scale, and magnetic or true north point.
2. Intersections of the proposed street with existing streets.
3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
5. Complete curve data shall be indicated for all horizontal and vertical curves.
6. Turning radii at all intersections.
7. Centerline gradients.
8. Locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.

C. Upon receipt of plans for a proposed public street the Board shall forward one copy to the Municipal Officers, the Road Commissioner, and the town's consulting engineer, if one, for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the town's consulting engineer, if one, for review and comment.

11.2 Street Design Standards:

A. These design standards shall be met by all streets within subdivisions, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.

B. Streets shall be designed to discourage through traffic within a residential subdivision.

C. Wherever existing or other proposed streets, topography, and public safety permit, streets shall run in east-west directions to maximize access for solar energy utilization. The character, extent, width, and grade of all streets shall be considered in their relation to existing or planned streets.

D. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the municipality.

E. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.

F. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the Zoning Ordinance. When such widening or realignment is indicated on the Official Map, the reserve area shall not be included in any lot but shall be reserved to be deeded to the municipality or State.

G. Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly on to the arterial street. This requirement shall be noted on the Plan and in the deeds of any lot with frontage on the arterial street.

H. Any subdivision containing fifteen dwelling units or more shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street serving fifteen dwelling units or more shall have at least two street connections leading to existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.

I. The following design standards apply according to street classification:

Type of Street

Description	Arterial	Collector	Minor	Private Right of Way	Industrial/ Commercial
Minimum Right of Way Width	50'	50'	50'	50'	50'
Minimum Pavement Width	24'	24'	22'	22'	24'
Minimum Grade	0.50%	0.50%	0.50%	N/A	0.50%
Maximum Grade	8%	10%	10%	12%	8%
Minimum Centerline Radius	800'	230'	150'	N/A	800'
Minimum Tangent between curves of reverse alignment	100'	100'	100'	N/A	100'
Roadway Crown	1/4"/ft.	1/4"/ft.	1/4'/ft.	N/A	1/4'/ft.
Minimum angle of street intersections	90^0	90^0	90^0	90^0	90^0
Maximum grade within 75ft. of intersection	2%	2%	2%	N/A	2%
Minimum curb radii at intersections	30'	20'	15'	N/A'	30'
Minimum R/O/W radii at intersections	20'	10'	10'	10'	20'
Minimum width of shoulders (each side)	2'	2'	2'	2'	2'

J. The centerline of the roadway shall be the centerline of the right-of-way.

K. Dead End Streets. In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Property line 65 ft.; outer edge of pavement 50'; and inner edge of pavement 30'. The Board may require the reservation of a twenty-foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty-foot easement in line with the street to provide continuation of the road where future subdivision is possible.

L. Grades, Intersections, and Sight Distances.

1. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.

2. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.

3. Where new street intersections or driveway curb-cuts are proposed, sight distances. as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below.

Posted Speed Limit (mph)	25	30	35	40	45	50	55
Sight Distance	250	300	350	400	450	500	550

Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.

4. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of two hundred feet shall be maintained between centerlines of side streets.

11.3 Street Construction Standards:

A. Minimum thickness of material after compaction:

Street Materials	**Minimum Requirements**				
	Arterial	Collector	Minor	Right of Way	Industrial/ Commercial
Aggregate Sub-base Course (maximum sized stone 6")	18"	18"	18"	18"	18"
Crushed Aggregate Base Course	4"	4"	4"	4"	4"
Hot Bituminous Pavement					
Total Thickness	3 1/2"	3 1/2"	3 1/2"	3 1/2"	31/2"
Surface Course	1 1/2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"
Base Course	2"	2"	2"	2"	2"

B. Preparation:

1. Before any clearing has started on the right of way, the center line and side lines of the new road shall be staked or flagged at fifty-foot intervals.

2. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the right-of-way.

3. All organic materials shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the York County Soil Survey as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below.

4. Side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, limed. fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.

5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.
6. Utility poles should be a minimum of 15' from the center of the road.

C. Bases and Pavement:

1. Bases:

   a. The Aggregate Sub-base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3-inch square mesh sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/4"	25-70%
No. 40	0-30%
No. 200	0-7%

   Aggregate for the sub-base shall contain no particles of rock exceeding four inches in any dimension.

   b. The Aggregate Base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of *clay* and other deleterious substances. The gradation of the part that passes a 3-inch square mesh sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/2"	45-70%
1/4"	30-55%
No.40	0-20%
No. 200	0-5%

   Aggregate for the subbase shall contain no particles of rock exceeding four inches in any dimension.

   c. Compaction of aggregate subbase and base courses shall meet 95% of the modified Proctor test

2. Pavement Joints: Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat. even, vertical joint.

3. Curbs and Gutters:

   a. Street curbs and gutters shall be installed as required by the Board.

   b. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.

4. Pavements:

   a. When two courses of hot bituminous concrete are used:

      1) Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than 1 inch maximum.

      2) Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C with an aggregate size no more than 3/4 inch maximum.

   b. When one course of hot bituminous concrete is used, the minimum standards for the pavement shall be the M.D.O.T. specifications for plant mix grade B modified with an aggregate size no more than 1 inch maximum.

   c. Liquid asphalt may be used on Minor and Collector streets and private rights-of-ways. Liquid asphalt shall be applied in two applications, each of which is not less than 0.5 gallon per square yard. Each application of liquid asphalt shall be covered with a clean sharp sand not to exceed 30 pounds per square yard.

11.4 Storm Water Management Design Standards:

A. Adequate provision shall be made for disposal of all stormwater generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrain, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.

1. All components of the storm water management system shall be designed to meet the criteria of a twenty-five-year storm based on rainfall data for Portland, Maine.

2. The minimum pipe size for any storm drainage pipe shall be twelve inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum

   of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

3. Catch basins shall be installed where necessary and located at the curb line.

4. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce stormwater velocity.

B. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.

C. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

D. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.

E. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the stormwater drainage system.

11.5 Storm Drainage Construction Standards:

A. Materials:

1. Reinforced Concrete Pipe: Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01-inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.

2. Asbestos Cement Pipe: Asbestos Cement Pipe shall meet the requirements of ASTM Designation C-428 (AASHTO M 189). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type meeting ASTM Designation D-1869-63, or of an approved preformed plastic sleeve type.

3. Corrugated Metal Pipe: Corrugated metal pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.

4. ABS Pipe: ABS (Acrylonitrile-butadiene-styrene) composite pipe fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type Ill.

5. Corrugated Plastic Pipe. Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252

6. Manholes: Manholes shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Bases may be cast in place 3,000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTMA 283, Grade B or better) for structural steel.

7. Catch Basins: Catch Basins shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C, 139, radial type. Castings shall be square cast iron sized for the particular Inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3,000psi 28-day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops shall conform to the requirements of AASHTO M 103 *tor* carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 {ASTM A 283, Grade B or better) for structural steel.

B. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the town's consulting engineer, if one

C. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400-foot intervals.

D. Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance.

11.6 Additional Improvements and Requirements:

A. Erosion Control: The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

B. Cleanup: Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If onsite disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

C. Street Names, Signs and Lighting: Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Municipality and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the

costs of installing street names, traffic safety and control signs. Street Lighting shall be installed as approved by the Board.

11.7 Certification of Construction:

Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations. "As built" plans shall be submitted to the Municipal Officers

ARTICLE XII PERFORMANCE GUARANTEES

12.1 Types of Guarantees: With submittal of the application for Final Plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

A. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;

B. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers, or Town Manager;

C. An irrevocable letter of credit *(see Appendix B for sample)* from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers, or Town Manager; or

D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the town's consulting engineer, Road Commissioner, Municipal Officers, and/or Town Attorney.

12.2 Contents of Guarantee: The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

12.3 Escrow Account: A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal.

Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

12.4 Performance Bond: A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

12.5 Letter of Credit: An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

12.6 Conditional Agreement: The Board, at its discretion, may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that up to four lots may be sold or built upon until either:

A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or

B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 12.8.

12.7 Phasing of Development: The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

12.8 Release of guarantee: Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the town's consulting engineer, and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

12.9 Default: If, upon inspection, the town's consulting engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

12.10 Private Roads: Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan. "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."

12.11 Improvements Guaranteed: Performance guarantees shall be tendered for all improvements required by Section 10.5 of these regulations, as well as any other improvements required by the Board.

ARTICLE XIII- WAIVERS

13.1 Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements for the standards, unless otherwise indicated in the regulations, to permit a more practical and economical development. provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, the Zoning Ordinance, or these regulations.

13.2 Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements subject to appropriate conditions.

13.3 In granting waivers to any of these regulations in accordance with Sections 13.1 and 13.2, the Board shall require such conditions as will assure the objectives of these regulations are met.

ARTICLE XIV· APPEALS

14.1 An aggrieved party may appeal any decision of the Board under these regulations to York County Superior Court.

APPENDIX A

Title 30, M.R.S.A. §4956. Land Subdivisions

1. **Defined.** A subdivision is the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September, 23, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this section, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purposes of this section.

   In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first 2 lots and the next dividing of either of said first 2 lots, by whomever accomplished, unless otherwise exempted herein shall be considered to create a 3rd lot, unless both such dividings are accomplished by a subdivider who shall have retained one of such lots for his own use as a single family residence for a period of at least 5 years prior to such 2nd dividing. Lots of 40 or more acres shall not be counted as lots.

   For the purposes of this section, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof...

2. **Municipal review and regulation**

   A. **Reviewing Authority.** All requests for subdivision approval shall be reviewed by the municipal planning board, agency or office or if none, by the municipal officers, hereinafter called the municipal reviewing authority.

   B. **Regulations.** The municipal reviewing authority may after a public hearing, adopt additional reasonable regulations governing subdivisions which shall control until amended repealed or replaced by regulations adopted by the municipal legislative body. The municipal reviewing authority shall give at least 7 days' notice of such hearing.

   C. **Record.** On all matters concerning subdivision review, the municipal reviewing authority shall maintain a permanent record of all its meetings, proceedings and correspondence.

      C-1. Upon receiving an application, the municipal reviewing authority shall issue to the applicant a dated receipt. Within 30 days from receipt of an application, the municipal reviewing authority shall notify the applicant in writing either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

D. **Hearing; order.** In the event that the municipal reviewing authority determines to hold a public hearing on an application for subdivision approval, it shall hold such hearing within 30 days of receipt by it of a completed application, and shall cause notice of the date, time and place of such hearing to be given to the person making the application and to be published in a newspaper of general circulation in the municipality in which the subdivision is proposed to be located, at least 2 times, the date of the first publication to be at least 7 days prior to the hearing.

The municipal reviewing authority shall, within 30 days of a public hearing or within days or receiving a completed application, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, issue an order denying or granting approval of the proposed subdivision or granting approval upon such terms and conditions as it may deem advisable to satisfy the criteria listed in subsection 3 and to satisfy any other regulations adopted by the reviewing authority, and to protect and preserve the public's health, safety and general welfare. In all instances the burden of proof shall be upon the persons proposing the subdivisions. In issuing its decision, the reviewing authority shall make finding of fact establishing that the proposed subdivision does or does not meet the foregoing criteria.

3. **Guidelines.** When promulgating any subdivision regulations and when reviewing any subdivision for approval, the planning board, agency or office, or the municipal officers, shall consider the following criteria and before granting approval shall determine that the proposed subdivision:

A. Will not result in undue water or air pollution. In making this determination it shall at least consider:
The elevation of land above sea level and its relation to the floodplains, the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations;

B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;

C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;

D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;

F. Will provide for adequate sewage waste disposal;

G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized;

H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

I. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any;

J. The subdivider has adequate financial and technical capacity to meet the above stated standards;

K. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water...

L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water; and

M. The subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area the subdivider will determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition of plat approval requiring that principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

3-A. **Access to direct sunlight.** The planning board, agency or office or the municipal officers may, for purposes of protecting and assuring access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and setback requirements or other. permissible forms of land use controls.

4. **Enforcement.** No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and recorded in the proper registry of deeds, nor shall such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes but is not limited to the following: A granite monument, a concrete monument, an iron pin or a drill hole in ledge. No subdivision plat or plan shall be recorded by any register of deeds which has not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials indicating that installation has been completed.

Any person, firm, corporation or other legal entity who sells, leases, develops, builds

convey for consideration any land in a subdivision which has not been approved as required by this section shall be penalized in accordance with section 4966. The Attorney General, the municipality, the planning board of any municipality or the appropriate municipal officers may institute proceedings to enjoin the violations of this section.

All subdivision plats and plans required by this section shall contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared.

5. **Exemptions.** This section shall not apply to proposed subdivisions approved by the planning board or the municipal officials prior to September 23, 1971 in accordance with

laws then in effect nor shall it apply to subdivisions as defined by this section in actual existence on September 23, 1971 that did not require approval under prior law or to a subdivision as defined by this section, a plan of which had been legally recorded in the proper registry of deeds prior to September 23, 1971. The division of a tract or parcel as defined by this section into 3 or more lots and upon all of which lots permanent dwelling structures legally existed prior to September 23, 1971 is not a subdivision.

The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this section, shall not become subject to this section by the subsequent dividing of said tract or parcel of land or any portion thereof, however, the municipal reviewing authority shall consider the existence of such previously created lot or lots in reviewing a proposed subdivision created by such subsequent dividing.

6. **Revisions to existing plat or plan.** Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended.

If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plant or plan, the register shall indicate on the index for the original plat or plan that it has been superseded by another plat or plan and shall reference the book and page or cabinet and sheet on which the new plat or plan is recorded. In addition, the register shall ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan.

APPENDIX B

Sample Letter of Credit

Jane Planner, Chairman
Your Town Planning Board
Town Hall
Your Town, ME 04000

Dear Ms. Planner;

Re: Letter of Credit: Developer, Inc., Sunshine Estates, Your Town, Maine

This letter will confirm to Your Town that the Big Town Savings Bank has issued a loan commitment to Developer, Inc. for the purpose of constructing all required improvements in the "Sunshine Estates" subdivision.

Big Town Savings Bank will set aside $230,000 in a Construction Escrow Account, for completion of the required improvements. This account can be drawn upon by Your Town in the event that Developer, Inc. fails to complete steps A through H listed below for Windy Road on or before (two years from date of Final Plan approval).

Approximate Length of road 2,350 feet:

A. Grub roadways full width of 50 feet - $4/ft.	$9,400
B. Shape sub-base and grade it - $4/ft.	9,400
C. Install under drain culverts - $16/ft.	37,600
D. Install sewer $22/ft. x2,050 plus pump $16,500	61,600
E. Install water mains $14/ft x 2,400	33,600
F. Apply and shape 18" gravel base $8.30/ft x 2350'	19,500
G. Apply and shape 3" of crushed gravel; apply 1 3/4" of base course bituminous concrete to width of 24', apply bituminous curb and 2" of bituminous concrete to a width of 5", $10/ft., x 2350'	23,000
H. Apply ¾" of surface bituminous concrete to width of 24" - $5/ft	11,800

Big Town Savings Bank understands that Developer, Inc., or the contractor, will notify the town's consulting engineer, if one, or Code Enforcement Officer before any of the above work has begun and obtain his approval in writing as he completes each phase of the road construction.

This Account shall expire when Your Town acknowledges in writing to Developer, Inc. that the work outlined in Steps A through H has been completed in accordance with Your Town's subdivision regulations and street acceptance ordinance, and the approved plans of Sunshine Estates. Any funds remaining in the account on (date specified above) for work outlined in Steps A through H which has not been completed and approved by the Town on that date shall be released to the Town to complete such work. As the town's consulting engineer, if one, or Code Enforcement Officer has issues his written approvals for each step above to Developer, Inc. the funds in this Account will be released based upon the schedule above.

Drafts drawn upon this account must be for this particular subdivision and to complete any work which is outlined above. Furthermore, drafts must be accompanied by itemized statements showing costs of work to be completed and must be submitted prior to (date specified above) if submitted by Developer, Inc., or prior to (six to nine months following date specified above) if submitted by Your Town. Your Town shall not be responsible for repayment or interest cost for any funds released to the Town for work not completed on or before (date specified above).

Very Truly Yours,
Loan Officer

SEEN AND AGREED TO:_____
Developer, Inc.

Your Town hereby accepts said original letter as evidence of its satisfaction of Developer Inc.'s obligation to be performed.

YOURTOWN
By_____Chairman, Board of Selectmen

APPENDIX C

Sample Storm Drainage Easement

KNOW ALL MEN BY THESE PRESENTS:

That _____ of _____, County of _____ ,being the owner of a certain lot or parcel of land in the Town of _____ and State of Maine, which premises are more fully described in a certain subdivision plan entitled _____, by _____, dated _____ and recorded in the _____ County Registry of Deeds in Plan Book _____, Page _____, which description of said premises is included herein by reference. For and in consideration of the sum of One Dollar and other good and valuable considerations paid by the Inhabitants of the Town of_____, State of Maine, the receipt of which is hereby acknowledged, Grantor(s) do(es) hereby give, grant and quit-claim unto the said Inhabitants of the Town of _____ an easement and right-of-way for the construction, maintenance, repair or replacement of storm drains on or across said premises. Said easement shall be thirty (30) feet in width and _____ feet in length across Lots numbered _____ and shall be located as shown on the above- mentioned subdivision plan.

TO HAVE AND TO HOLD the said easement and right-of-way unto the said Inhabitants of the Town of_____for use for storm drainage so long as the same shall be used and maintained for such purposes; and the Grantor(s) hereby dedicate(s) their respective interests in said strip of land to public use for such purposes. Grantor(s) further grant(s) to the Inhabitants of the Town of _____ the right to enter upon said land for purposes hereinbefore mentioned and Grantor(s), their heirs or assigns shall not construct any structure within said easement or plant vegetation within said easement without the express written consent of the Director of the Town of _____ Department of Public Works and the Town Engineer of the Town of _____.

IN WITNESS WHEREOF, the said _____ have hereunto set my (our) hand(s) and seal(s) this _____ day of _____ ,20_____.

SIGNED, SEALED AND DELIVERED
in presence of

_____ _____

_____ _____

STATE OF MAINE
_____, ss. _____, 20____
Personally appeared, before me, the above-mentioned _____
and acknowledged the foregoing instrument to be free act and deed.

_____
Notary Public/Justice of the Peace

APPENDIX D

(MODEL)

NOTICE OF DECISION

Date: _____

To: _____

_____

_____

Dear _____

This letter is to inform you that the Newfield Planning Board has acted on your application for a subdivision as follows:

Findings of Fact

1. The owner of the property is _____
2. The property is located at _____, in the _____ zoning district, identified as Assessor's Map _____, Lot _____, and contains _____ (acres, sq. ft.).
3. The applicant is _____, who has demonstrated a legal interest in the property by providing a copy of a (deed, option, purchase and sales agreement.)
4. The applicant proposes to establish a _____ lot subdivision on the subject property. The lots range in size from _____ (sq. ft., acres) to _____ (sq. ft., acres).
5. A completed application was submitted on _____
6. A public hearing was held on _____
7. Water is to be supplied by private wells.
8. Sewage is to be disposed of by individual subsurface disposal systems. Site evaluations for each lot, meeting the requirement of the Maine Subsurface Wastewater Disposal Rules were completed by_____, Licensed Site Evaluator, on _____.
9. A storm water drainage plan has been prepared by _____, P.E.
10. The applicant has submitted a (certified check, certificate of deposit, a performance bond, a letter of credit) adequate to cover the costs of all required improvements.
11. _____.
12. _____.

Conclusions

1. The criteria of Title 30, M.R.S.A., §4956, subsection 3 have been met. (or) The following criteria of Title 30, M.R.S.A., §4956, subsection 3 have not been met:_____

_____

_____

_____

_____

2. The standards of the Town's subdivision ordinance have been waived by the Planning Board:

   _____

   _____

   (or) The following standards of the Town's subdivision ordinance have not been met:

   _____

   _____

3. _____
4. _____

Decision

Based on the above facts and conclusions, on_____, the Planning Board voted to (approve, deny) your application for a subdivision.

Conditions of Approval (*If Approved)*

In order to further promote the purposes of the State Subdivision Law, the Town's Subdivision Ordinance, Zoning Ordinance, and Comprehensive Plan, the Planning Board has voted to impose the following conditions on the approval of this subdivision:

1. _____
2. _____
3. _____

(If Denied)

In accordance with Article XIV of the_____ Subdivision Ordinance, you have the right to appeal this decision to York County Superior Court within thirty days of this notice.

Sincerely,

Chairman

cc: Code Enforcement Officer
Municipal Officers

APPENDIX E

Town of Newfield Subdivision Application

Subdivision Name_____ Application Number_____

APPLICANT INFORMATION

1. Name of Property Owner: _____
   Address: _____
   _____
   _____

2. Name of Applicant: _____
   Address: _____
   _____
   _____
   Telephone: _____

3. If applicant is a corporation, check if licensed in Maine *Yes *No and attach a copy of State's Registration

4. Name of applicant's authorized agent: _____
   Address: _____
   _____
   Telephone: _____

5. Name of Land Surveyor, Engineer, Architect or others preparing plan:
   _____
   Address: _____
   _____
   Telephone: _____ Registration #_____

6. Person and Address to which all correspondence regarding this application should be sent to:
   _____
   _____
   _____

7. What legal interest does the applicant have in the property to be developed (ownership, option, purchase & sales contract, etc.)?_____

8. What interest does the applicant have in any abutting property? _____
   _____

Land Information

9. Location of Property (from County Registry of Deeds): Book _____ Page _____
   (from Tax Maps): Map_____ Lot(s)_____

10. Current zoning of property: _____

11. Is any portion of the property within 250 feet of the high water mark of a pond, river or salt water body *Yes *No

12. Is any portion of the property located over a mapped sand and gravel aquifer? *Yes *No

13. Acreage to be developed: _____

14. Indicate the nature of any restrictive covenants to be placed in the deeds:
    _____
    _____
    _____
    _____

15. Has this land been part of a prior approved subdivision? *Yes *No

16. Identify existing use(s) of land. (farmland, woodlot, etc.) _____

17. Does the parcel include any waterbodies? *Yes *No

18. Is any portion of the property within a special flood hazard area as identified by the Federal Emergency Management Agency? *Yes *No

19. List below the names and mailing addresses of abutting property owners and owners across the road. Attach receipts from certified mailings notifying abutters of filing of this application.

Name	Address
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

General Information

20. Proposed name of development: _____
21. Number of lots or units: _____
22. Anticipated date for construction: _____
23. Anticipated date of completion: _____

24. Does this development require extension of public infrastructure? *Yes *No
    ___roads ____storm drainage ____other
    ___sidewalks ____fire protection equipment

25. Estimated cost for infrastructure improvements. $_____

26. Identify method of water supply to the proposed development.
    ____individual wells
    ____central well with distribution lines
    ____other, please state alternative

27. Identify method of sewage disposal to the proposed development.
    ____individual septic tanks
    ____central on-site disposal with distribution lines
    ____other, please state alternative

28. Identify method of fire protection for the proposed development.
    ____dry hydrants located on an existing pond or water body
    ____existing fire pond
    ____other, please state alternative

29. Does the applicant propose to dedicate to the public any streets, recreation or common lands?
    If any: street(s) *Yes *No Estimated Length_____
    recreation area(s) *Yes *No Estimated Acreage_____
    common land(s) *Yes *No Estimated Acreage_____

30. Does the applicant intend to request waivers of any of the subdivision submission requirements? If yes, list them and state reasons for the request. _____
    _____
    _____
    _____

To the best of my knowledge, all the above stated information submitted in this application is true and correct.

_____ _____
Signature of applicant date

APPENDIX F

Typical Street Cross Section

