Town of Waltham

SUBDIVISION ORDINANCE

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SECTION I: GENERAL PROVISIONS

A. TITLE

This Ordinance shall be known and be cited as the "Subdivision Ordinance of the Town of Waltham, Maine," and will be referred to herein as the "Ordinance."

B. AUTHORITY

This Ordinance is enacted under the authority granted to the Town by the statutes of the State of Maine and in accordance with the provisions of Title 30-A, MRSA, Section 4403, as amended.

C. APPLICABILITY

The provisions of this Ordinance shall apply to subdivisions as defined by this Ordinance and by Title 30-A, MRSA, Section 4401, as amended. The current statute is reproduced in part below.

"...Subdivision means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. ..."

"...A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection. ..."

D. CONFLICT WITH OTHER ORDINANCES

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance,

deed restriction or covenant, the more restrictive requirements shall govern.

E. SUPERSEDURE

All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed, but only to the extent of such conflict. The Subdivision Ordinance in effect at the time that this Subdivision Ordinance is enacted is hereby repealed. Provided, however, that all lawfully adopted Ordinances or parts thereof shall remain in full force and effect with respect to any violation thereof in existence at the time of adoption of this Ordinance, and provided further that any such violation shall be deemed a violation of this Ordinance and subject to its terms and provisions.

F. SEPARABILTY

In event that any section, subsection or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Ordinance; to this end, the provisions of this Ordinance are herby declared to be severable.

G. AMENDMENTS

The procedure to be followed in initiating and securing amendments to this Ordinance is as follows:

1. INITIATION

A proposal to amend this Ordinance may be initiated by:

a. The Planning Board, by majority vote;
b. The Select Board, through a request to the Planning Board; or
c. The Public, through a written petition signed by at least twenty-five (25) residents registered to vote in the Town of Waltham.
d. When an amendment is proposed by other than the municipal officers or Planning Board, a fee of one hundred dollars ($100) shall accompany the proposal to cover the cost of review, hearings, and advertisements. This fee is non-refundable.

2. PROCESS OF ADOPTION

The process to be followed in adopting an amendment to this Ordinance is as follows:

a. Proposed amendments must first be submitted to the Planning Board for their consideration.
b. The Planning Board shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment.

c. Notice of the public hearing shall be given pursuant to the provisions of Section III.H of this Ordinance.
d. The Planning Board shall make its official report at the next Town Meeting following the public hearing.
e. Enactment of a proposed amendment that does not have the support of the majority of the Planning Board shall require a two thirds (2/3) vote of the voters voting at the Town Meeting.
f. Amendments having the approval of the Planning Board shall require only a majority of the voters to enact that amendment.

H. EFFECTIVE DATE

The provisions of this Ordinance shall become effective the day of their enactment.

SECTION II: PURPOSES

The purposes of this Ordinance are as follows:

A. PROTECT GENERAL WELFARE

To assure the comfort, convenience, safety, health and welfare of the citizens of Waltham;

B. PROTECT ENVIRONMENT

To protect the natural resources from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;

C. PROMOTE COMMUNITY DEVELOPMENT

To promote the development of an economically sound and stable community;

D. BALANCE PROPERTY RIGHTS

To protect property rights and values by balancing the rights of landowners to use their land for the purposes regulated by this Ordinance with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance;

E. REDUCE FISCAL IMPACT

To provide the means for evaluating subdivision proposals for their fiscal impact on the municipality's ability to provide and improve necessary public facilities and services;

F. ESTABLISH PROCEDURES AND STANDARDS

To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; and to provide a public hearing process through which Town residents may raise questions and receive answers regarding how such developments may affect them.

SECTION III: ADMINISTRATION

A. ADMINISTERING BODY

The Planning Board of the Town of Waltham, hereinafter called the Board, shall administer this Ordinance.

B. APPROVAL REQUIRED

After the effective date of this Ordinance, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Board.

C. APPLICATION REQUIRED

Applications for approval shall be submitted in writing to the Board, on forms provided by it. The Board may require the submission of whatever additional information is necessary to determine compliance with the provisions of this Ordinance.

D. PERMITS TO BE APPLIED FOR BEFORE APPROVAL

Applications for approval under this Ordinance will not be considered complete for processing until evidence that all other required local, state, and federal permits have been acquired, has been provided to the Board.

E. COMMENCEMENT AND COMPLETION OF WORK

Construction activities on subdivisions for which approval has been granted under this Ordinance shall commence within six (6) months of the date of approval and shall be completed within eighteen (18) months.

Construction activities which are not commenced or substantially completed within the time limits provided above shall be subject to new application and the prior approval issued under this Ordinance shall be considered void, unless an extension has been granted by the Board.

Construction activities may be extended for up to twelve (12) months at a time by the Planning Board upon a showing of good cause where a written request setting forth the reasons for the extension is submitted not later than (30) days prior to the pending commencement or completion date.

F. CERTIFICATE OF CONSTRUCTION REQUIRED

No land in a subdivision requiring approval under this Ordinance shall be conveyed, rented, leased, or occupied without a certificate of construction issued by the Code Enforcement Officer indicating that all of the required public improvements have been constructed as required.

G. CONDITIONS OF APPROVAL

The Board may in approving applications attach such reasonable and appropriate terms and conditions, in addition to those required elsewhere in this Ordinance. Refer to Section XVIII. Such terms and conditions may include, but are not limited to, specifications for:

1. Specific sewage or other waste disposal facilities;
2. Specific water supply facilities;
3. Landscaping and planting screens;
4. Sureties and bonds;
5. Restrictive covenants;
6. Location of piers, docks, parking areas and signs; and
7. Any other term or condition of approval necessary to fulfill the purposes of this Ordinance.

Violation of any of these terms or conditions shall be considered a violation of this Ordinance.

H. PUBLIC HEARINGS

In scheduling public hearings under this Ordinance, the Board shall notify the Applicant at least twenty (20) days in advance of the date, time and place of the hearing. The Board shall publish notice of the hearing at least seven (7) days in advance in a newspaper of general circulation in the area at least two (2) times and shall post such notice in at least two (2) conspicuous public places. The first notice shall appear at least seven (7) days in advance of the hearing.

At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued to other times except for good cause. The applicant's case shall be presented first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairperson of the Board.

Whenever a public hearing is held pursuant to this Ordinance, the matters in that hearing may be carried over until the next regularly or specially scheduled meeting of the Planning Board for further public hearing without affecting any decisional deadline applicable to the Planning Board.

Ten (10) days after the public hearing, the administrative record shall close. Within thirty (30) days of the public hearing, the Board shall reach a decision on the proposed subdivision plan and shall inform the applicant and the Select Board in writing within ten (10) days of its decision stating its reasons. The Board shall prepare detailed, written findings of fact, as well as its conclusions and the reasons or basis thereof. These findings shall not be based on feelings or unsubstantiated allegations, but upon all reasonable and admissible evidence that is submitted prior to the closing of the record.

SECTION IV: CRITERIA OF APPROVAL

In approving applications submitted pursuant to this Ordinance, the Board shall find that the following requirements are met as designated under the Planning and Land Use Laws, Statutes of the State of Maine in accordance with the provisions of Title 30-A, MRSA, Section 4404, as amended.

1. POLLUTION

The proposed subdivision 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.

2. **SUFFICIENT WATER SUPPLY**
The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

3. **MUNICIPAL WATER SUPPLY**
The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be utilized;

4. **EROSION**
The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

5. **TRAFFIC**
The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 any rules adopted under that section;

6. **SEWAGE DISPOSAL**
The proposed subdivision will provide for adequate sewage disposal and will not cause an unreasonable burden on municipal services if they are utilized;

7. **MINICIPAL SOLID WASTE DISPOSAL**
The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

8. **AESTHETIC, CULTURAL AND NATURAL VALUES**
The proposed subdivision 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;

9. CONFORMITY WITH LOCAL ORDINANCES AND PLANS

The proposed subdivision conforms with this Subdivision Ordinance and any duly adopted comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

10. FINANCIAL AND TECHNICAL CAPACITY

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

11. SURFACE WATERS

Whenever situated entirely or partially 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 that body of water or unreasonably affect the shoreline of that body of water;

12. GROUND WATER

The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

13. FLOOD AREAS

If the subdivision, or any part of it, is in a flood-prone area based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by applicant, 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 principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

14. FRESHWATER WETLANDS

All potential 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.

15. RIVER, STREAM OR BROOK

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.

16. STORM WATER

The proposed subdivision will provide for adequate storm water management.

17. SPAGHETTI-LOTS PROHIBITED

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 5 to 1.

18. IMPACT ON ADJOINING MUNICIPALITY

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.

19. LANDS SUBJECT TO LIQUIDATION HARVESTING

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14.

20. STATE SUBDIVISION LAW CRITERIA

In addition to the criteria above, the Board shall find that the proposed subdivision meets any additional criteria added by the Legislature to title 30-A, MRSA, Section 4404, from time to time.

21. WRITTEN FINDINGS OF FACT REQUIRED

In approving subdivisions under this Ordinance, the Board shall consider the criteria above; and before granting approval, shall make written findings of fact that the provisions of this Ordinance have been met.

22. BURDEN OF PROOF

In all instances the burden of proof of compliance with the above criteria shall be upon the person proposing the subdivision.

SECTION V: ADMINISTRATIVE PROCEDURES

A. AGENDA REQUIRED

In order to provide an orderly process for reviewing applications, an agenda shall be prepared in advance of each regularly scheduled Planning Board meeting.

B. AGENDA MAY BE LIMITED

The Planning Board, in order to conduct a thorough review of applications submitted to it, may limit such review to one subdivision application per regularly scheduled meeting.

SECTION VI: PRE-APPLICATION CONFERENCE/SKETCH PLAN REVIEW

A. GENERAL

All applicants shall meet with the Planning Board prior to the formal submission of a subdivision plan to generally discuss their proposed subdivision and to obtain guidance from the Planning Board in the development of the plan.

B. PROCEDURE

The procedure for Sketch Plan Review are as follows:

STEP 1: ADVANCE REQUEST TO BE PLACED ON AGENDA REQUIRED

The applicant shall request, through the Town Clerk, to be placed on the Planning Board's agenda, for a pre-application conference, at least twenty-eight (28) days prior to the regularly scheduled meeting at which the applicant wishes to be heard.

STEP 2: REVIEW OF SUBMISSION PACKET FOR COMPLETENESS

The Chair of the Planning Board or designee shall not place an applicant on the agenda until determining that the applicant has presented the submission packet as specified in subsection C. of this section.

STEP 3: PLANNING BOARD REVIEWS SKETCH PLAN AND EXHIBITS

At the pre-application meeting, the Planning Board shall review the Sketch Plan and accompanying exhibits with the applicant, answer the applicant's questions, and make specific suggestions to be incorporated by the applicant in subsequent submissions.

STEP 4: CLASSIFICATION OF SUBDIVISION

At the pre-application meeting, the Planning Board shall classify the proposed subdivision as either a minor or major subdivision and so notify the applicant in writing. (See Section XXVI: Definitions)

STEP 5: ON-SITE INSPECTION DATE SET

At the pre-application meeting, the Planning Board shall schedule an on-site inspection of the tract or parcel to be subdivided and shall notify the applicant of the time and date in writing.

C. SUBMISSION PACKET

The submission packet required for Sketch Plan Review shall include the following:

1. SKETCH PLAN
   A Sketch Plan, showing the information specified in subsection C.1.d. below, shall be submitted to the Planning Board.
   a. NUMBER OF COPIES:
      Eight (8) paper copies of the Sketch Plan shall be submitted.
   b. SHEET SIZE:
      The Sketch Plan shall be at least 11 x 17 inches, but no larger than 24 x 36 inches in size.
   c. PLAN SCALE:
      The Sketch Plan shall be drawn to scale.
   d. INFORMATION TO BE SHOWN ON THE PLAN:
      The following information shall be shown on all Sketch Plans:
      1) The outline of the tract or parcel to be subdivided, with known or, if not known, estimated perimeter dimensions and area;
      2) True North arrow;
      3) The scale to which the plan is drawn;
      4) The proposed layout of lots, roads, driveways, and building locations;
      5) Identification of general areas of slopes fifteen percent (15%) or greater, areas of exposed ledge, wetlands, streams and floodplains;
      6) Location of public utilities proposed to be utilized;
      7) Location, dimensions, and terms of any existing easements, rights-of-way, and/or deed restrictions encumbering the property;
      8) The tax map and lot numbers from Tax Assessor's Office describing the parcel proposed to be subdivided; and
      9) The present zoning classification of the parcel.

2. EXHIBITS TO ACCOMPANY SKETCH PLAN
   Exhibits 1, 2, 3, and 4 of paragraph C.1.d., above shall accompany the Sketch Plan and be submitted with the Sketch Plan to the Town Clerk when requesting a Pre-application Conference.

D. ON SITE INSPECTION

The on-site inspection shall be jointly attended by the applicant or his/her duly authorized agent and by at least one member of the Planning Board or an

individual appointed by the Chairperson of the Planning Board to act as the Board's authorized representative for such inspection.

After the on-site inspection, the Planning Board shall determine the contour levels for subsequent submissions and shall notify the application in writing of the required contour interval.

E. 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., Section 302, as amended.

SECTION VII: SUBDIVISION REVIEW PROCESS: MINOR SUBDIVISIONS

A. MINOR SUBDIVISION MAY HAVE TO COMPLY WITH MAJOR SUBDIVISION REQUIREMENTS

The Planning Board may require, where it deems it necessary for the protection of public health, safety and general welfare, that a Minor Subdivision, which is defined as any subdivision containing not more than four (4) lots or dwelling units, comply with all or any of the procedural and submission requirements of a Major Subdivision.

B. SUBMISSION PACKET

The submission Packet required for Minor Subdivisions shall include the following:

1. APPLICATION AND EXHIBITS
   An application and attachments for Planning Board review of Minor Subdivisions shall be submitted as specified in Section X of this Ordinance.

2. FINAL SUBDIVISION PLAN
   A Final Subdivision Plan for Planning Board review of Minor Subdivisions shall be submitted as specified in Section XII of this Ordinance.

3. ADMINISTRATIVE FEES AND ESCROW ACCOUNT
   An administrative fee and escrow account for Planning Board review of Minor Subdivisions shall be submitted as specified in Section XIII of this Ordinance.

C. PROCEDURE

The procedure for reviewing Minor Subdivision Plans is as follows:

STEP 1: REQUEST FOR FINAL PLAN REVIEW

Within six (6) months after classification of the proposed subdivision as a Minor Subdivision, the Applicant shall request, through the Town Clerk, to be placed on the Planning Board's agenda.

Such a request shall be made at least twenty-eight (28) days prior to the regularly scheduled meeting at which the applicant wishes to be heard.

Failure to do so within six (6) months of classification may require a new pre-application conference.

STEP 2: REVIEW OF SUBMISSION PACKET FOR COMPLETENESS

The Planning Board Chair or designee shall not place an applicant on the agenda until determining that the applicant has presented the submission packet required for Minor Subdivisions by this Ordinance.

If the Planning Board Chair or designee determines that the submission packet is not complete, the submissions shall be returned to the applicant with a Notice of Incomplete Submission, specifying the required information found to be missing.
If the Planning Board Chair or designee determines that the submission packet is complete, the applicant shall be issued a Dated Receipt of Application and the application placed on the agenda of the first available scheduled Planning Board meeting.

STEP 3: NOTICE TO ABUTTERS AND ADJACENT MUNICIPALITY

Upon the issuance of a Dated Receipt Of Application, the Secretary of the Planning Board shall notify by mail all abutting property owners of the proposed subdivision, and the Clerk and Planning Board of municipalities that abut or include any portion of the proposed subdivision, if the proposed subdivision in fact abuts or is in part within another municipality.

Such notice shall specify that a Plan and application for a proposed Minor Subdivision has been received, the location of the proposed Minor Subdivision, and give a general description of the proposal.

STEP 4: PLANNING BOARD REVIEW OF PLAN AND APPLICATION

Within thirty (30) days from the receipt of an application, the Planning Board shall review the Plan and submissions for completeness.

If the Planning Board determines that the application is not complete, it shall issue the applicant a Notice of Incomplete Application specifying the additional information expected prior to further action on the application.

If the Planning Board determines that the application is complete, it shall issue the applicant a Notice of Complete Application.

A Notice of Complete Application does not constitute the Planning Board's approval of the information submitted. The Planning Board

reserves the right to request additional information throughout the review process up to and until Final plan approval.

Full evaluation of the Final plan shall begin only after the Planning Board has determined that a complete application has been filed. This evaluation may commence at the same meeting at which the determination of completeness has been made.

STEP 5: FINAL PLAN PUBLIC HEARING DISCRETIONARY

Within thirty (30) days of the Planning Board's determination that a complete application has been submitted or within such other time limit as may be mutually agreed to by the Planning Board and the Applicant, the Planning Board may decide that the proposed Minor Subdivision lacks such complexity that a public hearing is not warranted and not hold a public hearing on the Final Plan of the proposed Minor Subdivision.

Notice of a public hearing shall be given pursuant to the provisions of Section III. H. of this Ordnance, should the Planning Board decide one is necessary.

STEP 6: PLANNING BOARD DECISION ON FINAL PLAN

Within sixty (60) days of the Planning Board's determination that a complete application has been submitted, or within thirty (30) days of the public hearing should a public hearing be held, or within such other time limit as may be mutually agreed to by the Planning Board and the Applicant, the Planning Board shall approve, approve with conditions, or disapprove the Final Plan of the proposed Minor Subdivision.

The Planning Board's failure to grant an approval within the deadlines specified above shall constitute a denial of the application by the Board, unless the applicant waives the specified deadlines.

In issuing its decision, the Planning Board shall make written findings of fact and conclusions of law that the proposed Final Plan does or does not meet the criteria in Section IV of this Ordinance.

STEP 7: SIGNATURES

Upon approving the Final Plan, those members of the Planning Board voting for approval shall sign two (2) reproducible copies and two (2) paper copies of the approved Subdivision Plan.

STEP 8: FILING OF APPROVED FINAL PLAN

Planning Board Orders and approved Final Plans for Minor Subdivisions shall be filed in the Hancock County Registry of Deeds as specified in Section IX of this Ordnance.

SECTION VIII: SUBDIVISION REVIEW PROCESS: MAJOR SUBDIVISIONS

A. SUBMISSION PACKET

The submission packet required for Major Subdivisions, which are defined as any subdivision containing more than four (4) lots or dwelling units, shall include the following:

1. APPLICATION AND ATTACHMENTS
   An application and attachments for Planning Board Review of Major Subdivisions shall be submitted as specified in Section X of this Ordinance.

2. FINAL SUBDIVISION PLAN
   A Final Subdivision Plan for Planning Board Review of Major Subdivisions shall be submitted as specified in Section XII of this Ordinance.

3. ADMINISTRATIVE FEES AND ESCROW ACCOUNT
   An administrative fee and escrow account for Planning Board review of Minor Subdivisions shall be submitted as specified in Section XII of this Ordinance.

B. PROCEDURE

The procedure for reviewing Major Subdivision Plans is as follows:

STEP 1: REQUEST FOR REVIEW OF PRELIMINARY PLAN

Within six (6) months after classification of the proposed subdivision as a Major Subdivision, the Applicant shall request, through the Town Clerk, to be placed on the Planning Board's agenda for Major Subdivision Preliminary Plan review.

Such a request shall be made at least twenty-eighty (28) days prior to the regularly scheduled meeting at which the applicant wishes to be heard.

Failure to do so within six (6) months of classification may require a new pre-application conference.

STEP 2: REVIEW OF SUBMISSION PACKET FOR COMPLETENESS

The Planning Board Chair or designee shall not place an applicant on the agenda until determining that the applicant has presented the submission packet required for Preliminary Plan review of Major Subdivisions by this Ordinance.

If the Planning Board Chair or designee determines that the submission packet is not complete, he/she shall return the submissions to the applicant with a Notice Of Incomplete Submission, specifying the required information found to be missing.

If the Planning Board Chair or designee determines that the submission packet is complete, the applicant shall be issued a Dated Receipt Of Application and the application placed on the agenda of the next regularly scheduled Planning Board meeting.

STEP 3: NOTICE TO CEO, ABUTTERS AND ADJACENT MUNICIPALITY

Upon the issuance of a Dated Receipt Of Application, the Secretary of the Planning Board shall notify by mail the CEO, all abutting property owners of the proposed subdivision, and the Clerk and Planning Board of municipalities that abut or include any portion of the proposed subdivision, if the proposed subdivision in fact abuts or is in part within another municipality.

Such notice shall specify that a Preliminary Plan and application for a proposed Major Subdivision has been received, the location of the proposed Major Subdivision, and give general description of the proposal.

STEP 4: PLANNING BOARD REVIEWS PRELIMINARY PLAN AND APPLICATION

Within thirty (30) days from receipt of an application, the Planning Board shall review the preliminary plan and submissions for completeness.

If the Planning Board determines that the application is not complete, it shall issue the applicant a Notice of Incomplete Application specifying the additional information expected prior to further action on the application.

If the Planning Board determines that the application is complete, it shall issue the applicant a Notice of Complete Application.

A Notice of Complete Application does not constitute the Planning Board's approval of the information submitted. The Planning Board reserves the right to request additional information throughout the review process up to and until final plan approval.

Full evaluation of the preliminary plan shall begin only after the Planning Board has determined that a complete application has been filed. This evaluation may commence at the same meeting at which the determination of completeness has been made.

STEP 5: PRELIMINARY PLAN PUBLIC HEARING

Within thirty (30) days of the Planning Board's determination that a complete application has been submitted, or within such other time limit as may be mutually agreed to by the Planning Board and the applicant, the Planning Board shall hold a public hearing on the preliminary plan of the proposed Major Subdivision.

Notice of the public hearing shall be given pursuant to the provisions of Section III.H of this Ordinance.

STEP 6: PLANNING BOARD DECISION ON PRELIMINARY PLAN

Within thirty (30) days of the public hearing, or within such other time limit as may be mutually agreed to by the Planning Board and the Applicant, the Planning Board shall approve, approve with conditions, or disapprove the preliminary plan of the proposed Major Subdivision.

In issuing its decision, the Planning Board shall make written findings of fact that the proposed preliminary plan does or does not meet the criteria in Section II of this Ordinance. The Planning Board is not required to sign a preliminary plan.

STEP 7: REQUEST FOR REVIEW OF FINAL PLAN

Within six (6) months after approval of a preliminary plan for a Major Subdivision, the applicant shall request, through the Town Clerk, to be placed on the Planning Board's agenda for final plan review.

Such a request shall be made at least thirty (30) days prior to the next regularly scheduled meeting at which the applicant wishes to be heard.

Failure to do so within six (6) months of preliminary plan approval shall require that the preliminary plan be re-reviewed as provided in Steps 1 through 6, above.

STEP 8: REVIEW OF SUBMISSION PACKET FOR COMPLETENESS

The Planning Board or designee shall not place an applicant on the agenda until determining that the applicant has presented the submission packet required for final plan review of Major Subdivisions by this Ordinance.

If the Planning Board Chair or designee determines that the submission packet is not complete, the submissions shall be returned to the applicant with a Notice Of Incomplete Submission, specifying the required information found to be missing.

If the Planning Board Chair or designee determines that the submission packet is complete, he/she shall issue the applicant a Dated Receipt of Application and place the applicant on the agenda of the next regularly scheduled Planning Board meeting.

STEP 9: NOTICE TO CEO, ABUTTERS AND ADJACENT MUNICIPALITY OF FINAL PLAN

Upon the issuance of a Dated Receipt Of Application, the Secretary of the Planning Board shall notify by mail all abutting property owners of the proposed subdivision, and the Clerk and Planning Board of municipalities that abut or include any portion of the proposed subdivision, if the proposed subdivision in fact abuts or is in part within another municipality.

Such notice shall specify that a final plan and application for a proposed Major Subdivision has been received, the location of the proposed Major Subdivision, and give a general description of the proposal.

STEP 10: PLANNING BOARD REVIEWS FINAL PLAN

Within thirty (30) days from receipt of the final plan, the Planning Board shall notify the applicant in writing either that the final plan is complete or, if the final plan is incomplete, the specific additional action needed to make a complete final plan.

STEP 11: FINAL PLAN PUBLIC HEARING

Within thirty (30) days of the Planning Board's determination that a complete application has been submitted, or within such other time limit as may be mutually agreed to by the Planning Board and the

applicant, the Planning Board may decide to hold a public hearing on the final plan of the proposed Major Subdivision.

STEP 12: PLANNING BOARD DECISION ON FINAL PLAN

Within sixty (60) days of the Planning Board's determination that a complete application has been submitted, or within thirty (30) days of the public hearing, in the event the Planning Board decides to hold a public hearing, or within such other time limit as may be mutually agreed to by the Planning Board and the Applicant, the Planning Board shall approve, approve with conditions, or disapprove the final plan of the proposed Major Subdivision.

In issuing its decision, the Planning Board shall make written findings of fact and conclusions of law that the proposed final plan does or does not meet the criteria in Section IV of this Ordinance.

STEP 13: SIGNATURES

Upon approving the final plan, those members of the Planning Board voting for approval shall sign two (2) reproducible copies and two (2) paper copies of the approved Subdivision Plan.

STEP 14: FILING OF APPROVED FINAL PLAN

Planning Board Orders and approved final plans for Major Subdivisions shall be filed in the Hancock County Registry of Deeds as specified in Section IX of this Ordinance.

SECTION IX: FILING PROCEDURES FOR APPROVED SUBDIVISIONS

A. FILING OF PLANNING BOARD ORDERS REQUIRED PRIOR TO SIGNING OF AND FILING OF APPROVED FINAL SUBDIVISION PLANS

A copy of the Planning Board's Order regarding any Final Subdivision Plans, including the Board's findings of fact and conclusions and any conditions of approval shall be filed, by the applicant, in the Hancock County Registry of Deeds.

The book and page number of such recording shall appear and be referenced on the approved Final Subdivision Plan prior to the recording of such Plan, as set forth in Section C below.

B. FILING SECURITY DEPOSIT REQUIRED

Prior to the Planning Board's signing of the Final Subdivision Plan, the applicant shall provide the Town with a filing security deposit, in the form of a cashier's check made payable to the Town of Waltham as the same may be established from time to time by the Board of Selectpersons, after notice and hearing. (see Fee Schedule)

C. SIGNING OF APPROVED FINAL SUBDIVISION PLANS

Upon receipt of a copy of the recorded Planning Board Order, stamped by the Hancock County Registry of Deeds, and a filing security deposit, the Planning Board shall enter in ink, in the places provided in the Final Subdivision Plan Approval Block, the book and page and/or file numbers where such Planning Board Order is recorded in the Hancock County Registry of Deeds.

After entering the book and page numbers, those members of the Planning Board voting for approval shall sign, their names in ink in the places provided, on two (2) reproducible copies and two (2) paper copies of the approved Final Subdivision Plan.

D. FILING OF THE SIGNED SUBDIVISION PLAN

The applicant will be given the signed original reproducible (mylar) and two (2) signed paper copies of the Final Subdivision Plan. Within thirty (30) days of the date of Planning Board signatures the applicant shall file the reproducible (mylar) and one (1) paper copy with the Hancock Registry of Deeds and be responsible for having the second paper copy stamped and dated by the Registry of Deeds and returned to the Town of Waltham.

E. FAILURE TO FILE AS REQUIRED TO RESULT IN VOIDING OF APPROVAL AND FORFEITURE OF FILING SECURITY DEPOSIT

In the event that the applicant fails to file the approved Final Subdivision Plan within the thirty (30) days provided in Section D above, the Planning Board's approval shall be considered void and the filing security deposit forfeited.

F. RETURN OF FILING SECURITY DEPOSIT

Upon receipt from the applicant, of a copy of the approved Final Subdivision Plan, stamped and dated by the Registry of Deeds, the filing security deposit shall be refunded to the applicant by the Town.

G. FORFEITED DEPOSITS ACCRUE TO THE TOWN

In the event the applicant forfeits his/her filing security deposit, such funds shall accrue to the benefit of the Town.

SECTION X: SUBDIVISION APPLICATION AND ATTACHMENTS

A. APPLICATION FORM

The application form used in the subdivision review process contained in this Ordinance shall be provided by the Town, filled out by the Applicant and shall include the information required below.

B. INFORMATION TO BE SUBMITTED

The following information shall be included in the application forms submitted to the Planning Board with the final plans for all Minor Subdivisions and with the preliminary plans for all Major Subdivisions:

1. INFORMATION REGARDING THE APPLICANT

    a. The name, address, and phone number of the Owner of Record (Applicant).
    b. Information regarding the applicant's right, title, or interest in the parcel proposed to be subdivided.
    c. Information as to whether or not the applicant is a corporation and, if so, whether or not the corporation is licensed to do business in Maine.
    d. The name, address, and phone number of the applicant's authorized agent (if an agent is applying on behalf of applicant).
    e. The name, address, phone number, and registration number of the Land Surveyors, and/or Land Planners employed by the applicant to design the proposed subdivision.
    f. The name, address, and phone number of the individual(s) to whom all communications from the Planning Board should be directed.
    g. Information regarding the applicant's interest in any property abutting the parcel proposed to be divided and that the proposed subdivision plan covers his/her entire, contiguous holdings.

2. INFORMATION REGARDING PARCEL PROPOSED TO BE SUBDIVIDED

    a. The book and page numbers from Registry of Deeds describing the parcel proposed to be subdivided.
    b. The tax map and lot numbers from Tax Assessor's Office describing the parcel proposed to be subdivided.
    c. The existing use of the property proposed to be subdivided.
    d. The total acreage of parcel proposed to be divided.
    e. The present zoning of parcel proposed to be subdivided.
    f. Whether or not the parcel proposed to be subdivided is part of a prior approved subdivision.
    g. Whether or not any part of the parcel proposed to be subdivided is within the Shoreland Zone.
    h. Whether or not there are any freshwater wetlands located in whole or in part on the parcel proposed to be subdivided.
    i. Whether or not there are any significant groundwater aquifers located in whole or in part on the parcel proposed to be subdivided.
    j. Whether or not the parcel proposed to be subdivided is in whole or in part located within an identified special flood hazard area.

k. Whether or not the parcel proposed to be subdivided has any identified critical natural resources or wildlife habitats located in whole or in part on the parcel proposed to be subdivided.

3. INFORMATION REGARDING PROPOSED SUBDIVISION

a. Name of the proposed subdivision.
b. Type of proposed subdivision. (e.g.: residential, commercial, mobile home, mixed, etc.)
c. Number of lots and/or units proposed.
d. Information regarding proposed methods of disposing of sewage wastes generated by the proposed subdivision.
e. Information regarding proposed methods of supplying water required by the proposed subdivision.
f. Information regarding proposed methods of disposing of solid wastes generated by the proposed subdivision.
g. Information regarding proposed methods of controlling and/or preventing soil erosion and sedimentation resulting from the proposed subdivision.
h. Information regarding proposed methods of handling changes in storm water and/or surface water drainage patterns resulting from the proposed subdivision.
i. Information regarding proposed interior subdivision roads.
j. Information regarding proposed methods of handling traffic volumes projected to be generated by the proposed subdivision.
k. Estimated dates of starting and completing any proposed construction.
l. Estimated costs of required and proposed improvements.

C. EXHIBITS TO ACCOMPANY SUBDIVISION APPLICATIONS

In order for the Planning Board to make its required positive findings that the proposed subdivision in fact meets the Criteria of Approval contained in Section IV of this Ordinance, applicants are required to submit clear and sufficient evidence in support of each criteria.

The Planning Board shall from time to time adopt and keep up-to-date specifications of the nature and extent of the evidence it deems necessary to make positive findings with regard to the various criteria of approval.

SECTION XI: SPECIFICATIONS: PRELIMINARY PLANS

A. PRELIMINARY SUBDIVISION PLANS

Preliminary subdivision plans shall be prepared and submitted to the Planning Board, as follows:

1. SHEET SIZE
   Preliminary subdivision plans shall be 24 by 36 inches in size, and shall have a margin of two (2) inches outside of the border line on the left side for binding and a one (1) inch margin outside the border along the remaining sides.

2. NUMBER OF COPIES TO BE SUBMITTED
   Preliminary subdivision plans shall be submitted in ten (10) sets of one or more maps or drawings, printed or reproduced on paper. Ten (10) copies of the plan(s) reduced to a size of 8 1/2 x 11 inches shall be submitted. In addition, ten (10) copies of the application and required exhibits shall be submitted with the preliminary plans.

3. PLAN SCALE
   Preliminary subdivision plans shall be drawn to a scale of not more than one hundred feet (100') to the inch.

B. INFORMATION TO BE SHOWN ON PRELIMINARY SUBDIVISION PLANS

The following information shall be shown on preliminary subdivision plans:

1. GENERAL INFORMATION
   The proposed name of the subdivision, name of the Town, the date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, applicant, and professional or professional firm who prepared the plan.

2. BOUNDARY SURVEY
   Survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor, as being a Category I, Condition II survey as defined by the Maine Board of Registration for Land Surveyors. The type of monument set or found at each parcel corner shall also be shown.

3. CONTOUR LINES
   Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level (NGVD).

4. PROPOSED LOT LINES AND LOT NUMBERS
   Proposed lot lines with appropriate dimensions in decimals of a foot and lot areas in square feet and proposed lot numbers.

5. EXISTING FOREIGN FEATURES
   The location, names, and widths of existing roads, highways, easements, building lines, parks and other open spaces on or adjacent to the proposed subdivision and the location and size of existing sewers, utility poles, water mains, culverts, other underground utilities and drainage ways on or adjacent to the proposed subdivision.

6. EXISTING NATURAL FEATURES
   The location and configuration of existing waterbodies, watercourses and wetlands on or immediately adjacent to the parcel, the cover types (open field, open shrub, wooded, etc.), and other significant physical features.

7. NAMES OF ADJACENT PROPERTY OWNERS
   The names of the owners of record of all abutting properties, including those of any properties directly across and along any existing public road abutting the proposed subdivision.

8. PROPOSED IMPROVEMENTS
   The location, names, and widths of any proposed roads, rights-of-way, easements, building lines, common open spaces associated with the proposed subdivision and the location and size of any proposed sewer lines, sewage disposal areas, water mains, wells, culverts and drainage ways associated with the proposed subdivision.

9. PUBLIC IMPROVEMENTS
   The location and width of any existing and proposed roads or other public improvements, within the subdivision, shown on the Official Map and/or the Comprehensive Plan, if any.

10. COMMON AND/OR PUBLIC AREAS AND FACILITIES
    Identification of all parcels and facilities proposed to be dedicated for common use and/or public ownership and/or use, and the conditions of such dedication and a description of their proposed improvement and management.

11. FLOOD HAZARD AREA BOUNDRIES
    If any portion of the subdivision is in a flood-prone area, the boundaries of such areas and the 100-year flood elevation.

12. EXISTING ZONING
The names and boundaries of any existing local zoning designations applicable to the property proposed to be subdivided.

13. SURVEYOR/PLANNER'S CERTIFICATION AND SEAL
The name, signature, registration number, and seal of the land surveyor who prepared the survey and the architect, engineer, or planning consultant who designed the plan.

SECTION XII: SPECIFICATIONS: FINAL SUBDIVISION PLAN

A. FINAL SUBDIVISION PLANS

Final minor and final major subdivision plans shall be prepared and submitted to the Planning Board, through the Town Clerk, in the same manner as required for preliminary subdivision plans in Section XI.A, of this Ordinance.

B. INFORMATION TO BE SHOWN ON FINAL SUBDIVISION PLANS

The same information required to be shown on preliminary subdivision plans, by Section XI.B, of this Ordinance shall be shown on all final minor and final major subdivision plans.

In addition, the following shall be shown on all final minor and final major subdivision plans:

1. FINAL PLAN APPROVAL BLOCK
   An approval block to record the approval of the final plan shall be permanently affixed to final minor and final major subdivision plans and shall read as follows:

APPROVAL BLOCK

This subdivision Plan has been approved with/without conditions by the Waltham Planning Board in accordance with Title 30-A, MRSA, Section 4401, et seq.

Approved lots may be sold or leased only in accordance with all applicable terms and conditions
included in and/or attached to the written Order issued by the Planning Board on / /
and recorded
in the Hancock County Registry of Deeds in Book _____ on page _____

Signed

_____

_____

_____

_____

_____

_____

_____

Date

2. 9-1-1 LOT NUMBERING SYSTEM
   Lines or dots in the center of the streets every fifty (50) feet so as to aid in assignment of numbers to structures subsequently constructed.

SECTION XIII: APPLICATION FEES AND TECHNICAL REVIEW ACCOUNT

A. APPLICATION PACKET FEE

The Application Packet Fee required to cover printing costs for copies of the Application Form and copies of this Ordinance are as follows:

1. COPIES OF SUBDIVISION APPLICATIONS
   The non-refundable fee for copies of the Subdivision Application shall be set by the select Board.

2. COPIES OF ORDINANCE
   The non-refundable fee for obtaining copies of this Ordinance shall be set by the Select Board. Copies of the Ordinance will be available for review at the Town Office.

B. APPLICATION PROCESSING FEES

The Application Processing Fees required to cover the administrative handling costs associated with subdivision review under this Ordinance are as follows:

1. MINOR SUBDIVISIONS
   The non-refundable fee to accompany the application of Minor Subdivision Final Plans as the same may be established from time to time by the Board of Selectpersons, after notice and hearing. The fee shall reflect the reasonable cost of processing, review, regulation and supervision of the application. (see Fee Schedule)

2. MAJOR SUBDIVISIONS
   The non-refundable fee to accompany the application of Major Subdivision Preliminary Plans as the same may be established from time to time by the Board of Selectpersons, after notice and hearing. The fee shall reflect the reasonable cost of processing, review, regulation and supervision of the application. (see Fee Schedule)

C. TECHNICAL REVIEW ACCOUNT

In addition to the fees for copies of the Application and Ordinance and the Application Processing Fee, the applicant shall pay a separate fee per lot or dwelling unit as the same may be established from time to time by the Board of Selectpersons, after notice and hearing. (see Fee Schedule) This fee to be deposited in a special account designed for the particular subdivision application, to be used by the Planning Board for hiring independent consulting or legal services to review the application.

This Technical Review Fee shall be paid prior to the start of the Planning Board's review of the Final Plan of a Minor Subdivision or the Preliminary Plan of a Major Subdivision.

This fee shall be paid to the Town of Waltham and the purpose of the fee shall be clearly indicated on the receipt for same. The town shall deposit this fee in a special bank account which is separate and distinct from all other Planning Board and Town accounts.

If the balance in this account is drawn down by 50% or more, the Board shall notify the applicant, and require that an additional fee per lot or dwelling unit be deposited by the applicant as the same may be established from time to time by the Board of Selectpersons, after notice and hearing. (see Fee Schedule) The Board shall continue to notify the applicant and require an additional fee per lot or dwelling unit as set by the Board of Selectpersons to be deposited as necessary whenever the balance of the account is drawn down by 50% of the original deposit.

Any Balance in the account remaining, after the approval of the subdivision, shall be returned to the applicant.

SECTION XIV: REVISION OF APPROVED PLANS AND TRANSFERS OF APPROVAL

A. REVISION OF APPROVED SUBDIVISION PLANS

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

Applications for revisions to existing plans shall comply with all of the fees, procedural requirements, and submissions required of this Ordinance for their classification.

The Planning Board shall make findings of fact and conclusions of law that the proposed revisions do or do not meet the applicable criteria of approval provided in Section IV.

B. TRANSFER OF SUBDIVISION APPROVAL

If the transfer in ownership of any approved subdivision involving public improvements or private road construction is anticipated prior to the successful completion of such improvements, the owner shall notify the Planning Board. The new owner shall be required to submit a subdivision plan amendment to the Planning Board for its review and action.

SECTION XV: ADDITIONAL REQUIRED IMPROVEMENTS

The following improvements are required for all subdivisions, unless waived by the Board in accordance with provisions of this Ordinance.

A. MOUMENTS

Development boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable permanent monumentation including, but not limited to the following:

a. A granite monument;
b. A concrete monument;
c. An iron pin; or
d. A drill hole in ledge.

B. WATER SUPPLY

1. The Board may allow the use of individual wells or a private central water supply system.

2. When a development is to be served by a central water supply system, the complete supply system, including any required fire ponds and dry hydrants, shall be installed at the expense of the subdivider.

3. If a central water supply system is provided by the developer, the location and protection of the source as well as the design, construction, and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water.

4. The applicant shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the Town granting access to the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon the submittal of evidence that soil types in the development will not permit their construction, or that a nearby water supply is deemed available and adequate for fire-fighting purposes by the Waltham Fire Department.

C. SEWAGE DISPOSAL

1. The applicant shall submit evidence of soil suitability for subsurface sewage disposal 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 a proposed subdivision, disposal areas shall not 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 development is traversed by a stream, river, or surface water drainage-way, 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. The surface water management system shall be designed by a Registered Professional Engineer.

2. Drainage easements for existing water courses or proposed drainage ways of adequate dimension conforming substantially with the lines of existing natural drainage, shall be provided and indicated on the Plan.

3. The developer shall provide a statement from a qualified professional that the proposed development will not create erosion, drainage or runoff problems either in the development or in other properties. Where the peak runoff from the development 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 surface water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, meeting the standards of Section XXI, shall be submitted.

E. SOLID WASTE DISPOSAL

All new subdivisions, where four (4) or more lots abut a private road, must provide a properly screened or buffered dumpster. The maintenance of

same shall be the responsibility of the developer or the homeowners association.

SECTION XVI: DEDICATION AND MAINTENANCE OF COMMON OPEN SPACE AND SERVICES

A. DEDICATION

1. All common land in subdivisions shall be owned jointly or in common by the owners of the dwelling units by means of a homeowners' association, or by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Town.

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

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

   a. It shall not be used for future building lots; and
   b. A part or all of the common open space may be dedicated for acceptance by the municipality or other organization acceptable to the Board.

B. MAINTENANCE OF COMMON SPACE IN SUBDIVISIONS

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

2. The form of the covenants for mandatory membership in the homeowners association setting forth the owners' right, interests, and privileges in the association and common property shall be reviewed and approved by the Planning Board, perhaps in consultation with the Town Attorney, and shall be included in the deed for each lot or dwelling.

3. The homeowners' association shall have the responsibility of maintaining the common property unless or until dedication is accepted by the municipality or other organization acceptable to the Board.

4. 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.

5. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until the association or the Town assumes that maintenance responsibility.

SECTION XVII: VIOLATIONS AND ENFORCEMENT

A. RECORDING OF SUBDIVISION PLAN WITHOUT PRIOR APPROVAL PROHIBITED

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

B. CONVEYANCE WITHOUT RECORDING PROHIBITED

No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration and land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

C. CONVEYANCE OF LOTS NOT SHOWN ON FINAL PLAN PROHIBITED

No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land in an approved subdivision which is not shown on the Final Plan as a separate lot.

D. UTILITY HOOKUPS PRIOR TO APPROVAL PROHIBITED

No public utility, water district, sanitary district or 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.

E. DEVELOPMENT PRIOR TO APPROVAL PROHIBITED

Development of a subdivision or project requiring approval under this Ordinance, without Board approval shall be a violation. 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 this Ordinance.

F. ROAD COMPLETION PRIOR TO OCCUPANCY REQUIRED

No unit in a multi-family development shall be occupied before the road upon which the unit is accessed is completed in accordance with this Ordinance.

G. FAILURE TO COMPLY WITH CONDITIONS OF APPROVAL

Failure to comply with any conditions of approval shall be construed to be a violation of this Ordinance and shall be grounds for revoking the approved development plan, initiating legal proceedings to enjoin construction, development or any specific activity violating the conditions of permit approval or applying the legal penalties provided herein.

H. NUISANCES

Any violation of this Ordinance shall be deemed a nuisance.

I. CODE ENFORCEMENT OFFICER

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, the person or persons responsible for such violation, the Town Select Board and the Planning Board, shall be notified in writing, including the nature of the violation and ordering the action necessary to correct it, including the discontinuance of illegal use of land, buildings, or structures, and abatement of nuisance conditions. A copy of such notice shall be maintained as a permanent record.

J. LEGAL ACTIONS

When there is a violation of this Ordinance, the Select Board, upon notice from the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town. The Code Enforcement Officer, upon certification, is hereby authorized to represent the Town in District Court pursuant to Title 30-A, MRSA, Sec. 4451 et seq., as amended. In any case, the Town Attorney may prosecute such actions.

K. FINES AND FEES

Any violation of this Ordinance is punishable pursuant to Title 30-A, MRSA, section 4452, as amended. The provisions of that statute governing fines and fees is expressly applicable to violations under this Ordinance. Each day such violation is continued is a separate offense. All such fines shall accrue to the Town.

L. CONTRACTOR LIABILITY

Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance if the necessary permits and/or approvals for such activity have not been obtained.

SECTION XVIII: GENERAL PERFORMANCE STANDARDS

In reviewing applications submitted pursuant to this Ordinance, the Board shall consider the following performance standards and make written findings that each has been met prior to issuing final approval.

A. CONFORMANCE WITH COMPREHENSIVE PLAN

All proposed subdivisions shall be in conformance with the Comprehensive Plan and Policy Statements of the Town and with the provisions of all pertinent local ordinances and regulations, State and Federal laws and regulations.

B. RELATIONSHIP TO MUNICIPAL SERVICES

The proposed development shall not have an unreasonable adverse impact on the municipal services including municipal road systems, fire department, police department, sewer and water systems, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

C. PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE

The landscape shall be preserved in its natural state insofar as reasonably practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be planted that will define, soften or screen the appearance of off-street parking areas, buildings and other structures from the public right-of-way and abutting properties in order to enhance the physical design of the proposed development, and to minimize the encroachment of the proposed uses on neighboring land uses.

D. RELATIONSHIP TO SCENIC CHARACTER OF THE NEIGHBORHOOD

Proposed buildings, structures and roads shall be related harmoniously to the terrain and to existing buildings and structures in the vicinity.

E. RETENTION OF OPEN SPACES AND NATURAL OR HISTORIC FEATURES

1. In any subdivision larger than twenty (20) acres, or more than ten (10) lots or dwelling units, the applicant shall provide at least ten (10) percent of his total area as usable open space. In any subdivision twenty (20) acres or less, or containing ten (10) lots or dwelling units or less, the Board may require the developer to provide at least ten (10) percent of his total area as usable open space. It is desirable that areas reserved for recreation be at least two (2) acres in size and easily accessible from all lots within the subdivision.

2. Land reserved for open space purposes shall be of a character, configuration, and location suitable for the particular use intended and deemed adequate by the Board.

3. Where the proposed subdivision is located on a lake, pond, river or stream, a portion of the waterfront area, when feasible, shall be included in the reserved land.

4. If the Planning Board determines that the reservation of land for parks and/or recreation purposes would be inappropriate or that the land is not suitable or is insufficient in amount, the Board may waive the requirement of land reservation on the condition that the Applicant deposit a cash payment in lieu of land reservation with the Town Clerk. Such payment shall be placed in a trust to be used exclusively for the purchase and development of neighborhood sites for parks, playgrounds and other recreational purposes. The amount of such payment shall be not more than 10% of the appraised market value, including improvements, for each lot approved on the final plan.

5. The Board may require that the development plans include a landscape plan that will show the preservation whenever practicable of any existing trees larger than twenty-four (24) inches in diameter four feet (4') in height above the ground; 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 boarders of lots should be avoided as far as possible, to retain a natural wind buffer.

F. LAND NOT SUITABLE FOR DEVELOPMENT

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size for the zone in which the development is located:

1. Land which is situated below the upland edge of the wetland;

2. Land which is part of a right-of way, or easement, including utility easements;

3. Land that has been created by filling or draining a pond or wetland;

G. TOPSOIL AND VEGETATION REMOVAL

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

2. Except for normal thinning, clearing for approved construction, landscaping, and cutting of trees to provide access to direct sunlight, existing vegetation shall be left intact whenever feasible to prevent soil erosion.

3. To prevent soil erosion of shoreline areas, tree cutting in a strip paralleling the shoreline of a waterbody, and extending one hundred (100) feet inland from all points along the upland edge of the wetland shall be limited in accordance with the clearing of vegetation provisions of the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances in effect at the time.

H. EROSION AND SEDIMENTATION CONTROL

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance. The Board shall require an applicant to take measures to correct and prevent soil erosion in the proposed development.

1. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and clean-up stages.

2. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best-management practices:

   a. Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion;

   b. Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;

   c. The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site;

d. Whenever feasible, natural vegetation shall be retained, protected and supplemented;

e. The disturbed area and the duration of exposure shall be kept to a practical minimum;

f. Disturbed soils shall be stabilized as quickly as practicable;

g. Temporary vegetation or mulching shall be used to protect disturbed areas during development;

h. Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends;

i. Until the disturbed area is stabilized, sediment in the runoff water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;

j. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Board;

k. During grading operations, methods of dust control shall be employed wherever practicable.

l. Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the person or persons causing such sedimentation to remove it from all adjoining surfaces, drainage systems and watercourses and to repair any damage at their expense as quickly as possible. Failure to do so within two (2) weeks after official notification by registered mail (return receipt requested) by the Code Enforcement Officer shall be considered a violation of this Ordinance. Under extenuating circumstances the Code Enforcement Officer may grant an extension of time.

m. It is the responsibility of any person performing any activity on or across a communal stream, watercourse or swale or upon the floodway or right-of-way thereof to maintain as nearly as possible the present state of the stream, water course, swale, floodway or right-of-way during the

duration of such activity and to return it to its original or equal condition after such activity is completed; and

n. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

I. LOT STANDARDS

1. All new lots in subdivision shall contain 40,000 square feet of net developable area with minimum of 200 feet of frontage on state, town or private roads.

2. All the lot configurations should be designed to maximize the use of solar energy on building sites with suitable orientation.

3. Lot configuration and area shall be designed to provide for adequate off-road parking and service facilities based upon the type of development contemplated.

4. 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.

5. Wherever possible, side lot lines shall be perpendicular to the road.

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

7. If a lot on one side of a 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 road or barrier to meet the minimum lot size, unless such lots are established lots of record prior to the adoption of this Ordinance.

8. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum dimensional requirements are prohibited, unless such lots are established lots of record prior to the adoption of this Ordinance.

J. UTILITIES

1. The Board may require electric, cable television, and telephone lines to be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site.

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

3. The size, type, and location of street lights and utilities shall be shown on the plan and approved by the Board.

K. CONSTRUCTION IN FLOOD HAZARD AREAS

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the development shall be constructed with their lowest floor, including 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.

SECTION XIX: ROAD DESIGN AND CONSTRUCTION STANDARDS

A. GENERAL REQUIREMENTS

In approving applications submitted pursuant to this Ordinance, the following requirements shall apply:

1. The proposed development shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points with respect to sight distances, intersections, schools and other traffic generators.

2. Curb cuts shall be limited to the absolute minimum number and widths necessary for safe entering and exiting. The proposed development shall not have an unreasonable adverse impact on the town road system and shall assure safe interior circulation within its site by separating pedestrian and vehicular traffic and providing adequate parking and loading areas.

3. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.

4. The Board, shall not approve any development plan unless proposed roads are designed in accordance with the specifications contained in this Ordinance. Approval of a Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.

B. ROAD DESIGN STANDARDS

1. These design standards shall be met by all roads within subdivisions reviewed under this Ordinance, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.

2. Roads shall be designed to discourage through traffic within residential developments except where such roads are proposed in the Town's Official Map, Land Use Plan, or Development Plan.

3. Where a development borders an existing narrow road (not meeting the width requirements of the standards for roads in this Ordinance), 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 development, the Planning Board may require that the development plan 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 this 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 Town or State.

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

5. Any development containing ten (10) or more dwelling units or lots shall have at least two (2) road connections with existing public roads, roads shown on an Official Map, or roads on an approved development plan for which performance guarantees have been filed and accepted.

6. The following design standards apply to subdivision roads:

DESCRIPTION	DIMENSION
Minimum Right Of Way Width	50'
Minimum Traveled Way	18'
Shoulder Width	2'
Maximum Grade	8%
Roadway Crown	¼'' /ft.
Angle of all Road Intersections	90 degrees
Maximum Grade within 75' of Intersections	3%
Minimum Curb Radii at Intersections	25'
Minimum r/o/w Radii at Intersections	10'

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

8. DEAD END ROADS:

   In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Sixty five (65) foot property line radii and fifty (50) foot outer edge of travel way radii. The Board may require the reservation of a twenty (20) foot easement in line with the dead end road to provide continuation of pedestrian traffic or utilities to the next road.

   The Board may also require the reservation of a fifty foot (50') easement in line with the dead end road to provide continuation of the road where future subdivision or development is possible.

9. GRADES, INTERSECTIONS AND SIGHT DISTANCES:

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

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

POSTED SPEED (MPH)	15	20	25	30	35	40	45	50	55
SIGHT DISTANCE (FT)	150	200	250	300	350	400	450	500	550

   c. Where new road 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 above.

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

   e. Cross (four-cornered) road 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 (200) feet shall be maintained between centerlines of side roads.

C. ROAD CONSTRUCTION STANDARDS

1. MINIMUM THICKNESS OF MATERIAL AFTER COMPACTION

ROAD MATERIALS
AGGREGATE SUB-BASE COURSE Maximum sized stone = 4"
CRUSHED AGGREGATE BASE COURSE

2. PREPARATION:

a. Before any clearing has started on the right of way, the centerline and sidelines of the new road shall be staked or flagged at fifty (50) foot intervals.

b. On soils which have been identified as not suitable for roadways, such as stumps, organic duff, and loam, 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 aggregate sub-base below.

c. Side slopes of exposed soil shall be no steeper than a slope of three (3) feet horizontal to one (1) foot vertical, and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan.

3. BASES AND PAVEMENT:

1) 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 three (3) inch square mesh sieve shall meet the following grading requirements:

SIEVE DESIGNATION	PERCENTAGE BY WEIGHT PASSING SQUARE MESH SIEVE
¼ inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the sub-base shall contain no particles of rock which will not pass the six (6) inch square mesh sieve.

If Geotextile Fabric is proposed, or required it shall be installed under Sub-base course.

2) The Aggregate Base Course shall be screened or crushed 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 three (3) inch square mesh sieve shall meet the following grading requirements:

SIEVE	PERCENTAGE BY WEIGHT

DESIGNATION	PASSING SQUARE MESH SIEVE
½ inch	45-70%
¼ inch	30-55%
No. 40	0-20%
No. 200	0-5%

Aggregate for the base shall contain no particles of rock which will not pass the two (2) inch square mesh sieve.

D. CLEANUP

Following road construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire road right-of-way. If on-site 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.

E. ROAD NAMES, NUMBERING, SIGNS, AND LIGHTING

Roads which join and are in alignment with roads of abutting or neighboring properties shall bear the same name. Names of new roads shall not duplicate, nor bear phonetic resemblance to the names of existing roads within the Town, and shall be subject to the approval of the Town Road Coordinator. The developer shall reimburse the Municipality for the costs of installing road name, traffic safety and control signs. Road lighting shall be installed as required and approved by the Board, and paid for by the developer.

Any prospective subdivider shall show a proposed road name and lot numbering system on the pre-application submission to the Planning Board. The approval by the Planning Board shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicant shall mark on the plan, lines or dots in the center of the streets every fifty (50) feet so as to aid in assignment of numbers to structures subsequently constructed.

F. DRIVEWAY CULVERTS

The minimum size of any driveway culvert shall be fifteen (15) inches in diameter. The minimum and maximum lengths respectively shall be twenty four (24) and thirty six (36) feet in length.

PVC pipe can be used as long as it has a minimum of eighteen (18) inches of cover, this means compacted, with suitable material, (no rocks larger than one (1) inch) on all sides of pipe.

G. CERTIFICATION OF CONSTRUCTION

Upon completion of road construction a written certification signed by a professional engineer registered in the State of Maine, approved by the Planning Board, shall be submitted to the Planning Board at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of this Ordinance. "As built" plans may be required by the Planning Board.

SECTION XX: BUFFER AND SCREENING STANDARDS

A. BUFFERS AND SCREENING

In approving applications submitted pursuant to this Ordinance, the Board shall require the applicant to meet the following buffer and screening standards:

1. All areas located along Town Ways, within twenty (20) feet of the edge of the right-of-way shall be used as buffer areas.

2. Buffers in the form of fences, landscaping, berms and mounds shall be required to minimize any adverse impacts or nuisance on the site or on adjacent properties.

3. Buffers shall be considered in or for the following areas and purposes:

    a. Along property lines, to shield various uses from each other;
    b. Along interior roads running parallel to roads exterior to the site, to prevent confusion, particularly at night;
    c. Parking areas, garbage collection areas, and loading and unloading areas; and
    d. To block prevailing wind patterns and to stop wind-borne debris from leaving the site.

4. Buffers shall be sufficient to shield structures and uses from the view of incompatible abutting properties and public road ways, and to otherwise prevent any nuisances.

5. Exposed storage areas, service areas, exposed machinery installation, sand and gravel extraction operations, truck-loading areas, utility buildings and structures, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, and similar accessory areas and structures, shall have sufficient setbacks and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development site and surrounding properties, such as a stockade fence or a dense evergreen hedge six (6) feet or more in height.

6. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and shall be maintained in good condition.

7. Natural features shall be maintained wherever possible to provide a buffer between the proposed development and incompatible abutting properties and public roadways. When natural features such as topography, gullies, and stands of trees, shrubbery, or rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.

8. Evergreens can be used as buffers, provided they are planted in two (2) or three (3) rows of staggered plantings. The rows should be seven (7) feet apart and the evergreens planted six (6) feet on center.

9. Fencing and screening shall be durable and properly maintained at all times by the owner.

10. Fencing and screening shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.

11. All buffers shall be maintained in a neat and sanitary condition by the owner.

B. PLANT MATERIAL MAINTAINANCE GUARANTEE REQUIRED

Prior to the issuance of any permit, the applicant shall furnish to the Town of Waltham a three (3) year guarantee that plantings be maintained in accordance with the terms of the Board's approval and in good and healthy condition. A maintenance bond may be required by the Planning Board.

SECTION XXI: STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS

A. GENERAL PROVISIONS

In approving applications submitted pursuant to this Ordinance, the Board shall require the applicant to meet the following storm drainage design and construction standards:

1. The storm drainage system will not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption and/or evaporation of run-off waters shall be utilized to minimize discharges from the site.

2. Surface water runoff shall be minimized and detained on-site if possible or practicable. If it is not possible to detain water on site, downstream improvements to the channel may be required of the developer to prevent flooding caused by the project. The natural state of watercourses, swales, floodways or rights-of-way shall be maintained as nearly as possible. The design basis is a twenty-five (25) year storm.

B. STORM WATER MANAGEMENT DESIGN STANDARDS

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

2. All components of the storm water management system shall be designed to meet the criteria of a twenty-five (25) year storm based on rainfall data for the closest reporting station to Waltham, Maine.

3. The minimum pipe size for any storm drainage pipe shall be fifteen (15) inches in diameter. The minimum and maximum lengths, respectively shall be twenty-four (24) and thirty-six (36) feet in length. Maximum trench width at pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three (3) inches, lumps of clay, or organic matter, reaching a minimum of six (6) inches below the bottom of the pipe extending to six (6) inches above the top of the pipe.

4. Catch basins shall be installed where necessary.

5. Inlets and outlets of culverts shall be stabilized against soil erosion by stone rip-rap or other suitable materials to reduce storm water velocity.

6. The storm water management system shall be designed to accommodate complete watershed drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of fifty percent (50%) for potential increases in upstream runoff.

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

8. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

C. STORM DRAINAGE CONSTRUCTION STANDARDS

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. 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 five (5) percent.

3. ABS PIPE:
   ABS (Acrylonitrile-butadiene-styrene) composite pipe and 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 III.

4. CORRUGATED PLASTIC PIPE:
   Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252.

5. ACCESS HOLES:
   Access holes, if required, shall be of precast concrete truncated cone section construction meeting 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 3000 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 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 (ASTM A 283, Grade B or better) for structural steel.

6. 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 sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3000 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 with tops which shall conform to the requirements of AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

7. DRAIN INLET ALIGNMENT:
   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.

8. ACCESS HOLE PLACEMENT:
   Access holes, if required, 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 four hundred foot (400') intervals.

9. CATCH BASIN AND ACCESS HOLE MAINTENANCE:

Upon completion each catch basin or access hole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until the Town will Accept the road.

SECTION XXII: PROVISION FOR CLUSTER DEVELOPMENT

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 by this Ordinance.

In addition, the purpose of allowing Cluster Development shall be to encourage housing development which will result in:

1. Additional open space and recreation areas;

2. A pattern of development which preserves trees, outstanding natural topography and geologic features and reduces soil erosion; and

3. An efficient use of land resulting in small networks of utilities and streets.

B. ALLOWABLE REDUCTION IN REQUIREMENTS

To accomplish the purposes above, the layout and dimensional requirements of this ordinance may be reduced as follows:

1. The Board may reduce area requirements by not more than fifty percent (50%) but only if a net area at least equal in area to the cumulative lot size reduction is maintained as common or public land;

2. The Board shall not increase building height limitations; and

3. The modification of requirements under this section shall not require a variance and no finding of undue hardship shall be required;

C. PERFORMANCE STANDARDS

All cluster developments approved by the Board must meet the following requirements:

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

2. The minimum area of land in a cluster development shall be ten (10) acres.

3. No building shall be constructed on soil types that are poorly drained.

4. Where a cluster development is proposed on a parcel which abuts a waterbody, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land.

5. 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.

SECTION XXIII: PERFORMANCE GUARANTEES

A. TYPES OF GUARANTEES

With submittal of the application for final plan approval for any subdivision, the Board may require the developer to provide one of the following performance guarantees for an amount adequate to cover the estimated construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs.

1. Either a certified check payable to the Town or a savings account or certificate of deposit all naming the Town as owner, for the establishment of an escrow account, as provided for in Section C, below;

2. A performance bond payable to the Town issued by a surety company, approved by the Select Board and Town Attorney, as provided for in Section D, below;

3. An irrevocable letter of Credit from a financial institution establishing funding for the construction of the development, from which the Town may draw if construction is inadequate, approved by the Select Board and Town Attorney, as provided for in Section E, below; or

4. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed, as provided for in Section F, below.

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

B. 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 date after which the developer will be in default allowing the Town access to the funds to finish construction, as provided for in Section I, below.

C. ESCROW ACCOUNT

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer, the Town shall be named as owner or co-owner, and the consent of the Town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer.

D. 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 developer, and the procedures for collection by the Town. The bond documents shall specifically reference the subdivision for which approval is sought.

E. 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 development and may not be used for any other project or loan.

F. CONDITIONAL AGREEMENT

The Board, at its discretion may provide for the developer to enter into a binding agreement with the Town in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that only up to three (3) lots may be sold or built upon until:

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

2. A performance guarantee, acceptable to the Town 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 Subsection H.

G. PHASING OF DEVELOPMENT

The Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots or buildings abutting that section of the proposed development's road which is covered by performance guarantee. When development is phased, road construction shall commence from an existing public way. All dead end roads shall be provided with a permanent or temporary cul-de-sac. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

H. RELEASE OF GUARANTEE

Prior to the final release of the performance guarantee, the Board shall determine that the proposed improvements meet or exceed the design and construction requirements.

I. DEFAULT

If, upon inspection, the Board, or its qualified agent, finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, it shall so report in writing to the Code Enforcement Officer, the Select Board, and the subdivider or developer. The Select Board shall take any steps necessary to preserve the Town's rights.

J. PRIVATE ROADS

Where the development roads are to remain private roads, the following words shall appear on the recorded plan:

"All roads in this development shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."

SECTION XXIV: WAIVERS

A. WAIVER OF SUBMISSION REQUIREMENTS

Where the Board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the submission requirements, 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, or any Ordinance.

B. WAIVER OF PERFORMANCE STANDARDS

Where the Board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the performance standards, unless otherwise indicated in this ordinance, 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, or any Ordinance.

C. WAIVERS OF REQUIRED IMPROVEMENTS

Where the Board makes written findings of fact that due to special circumstances of a particular site 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 to the proposed subdivision or development, it may waive the requirement for such improvements, provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan or any Ordinance.

D. WAIVERS FOR ROAD DESIGN AND CONSTRUCTION STANDARDS

Where the board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the road design and construction standards, unless otherwise indicated in this Ordinance, 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, or any ordinance.

E. WAIVERS CONDITIONALLY GRANTED

In granting waivers to any of the provisions of this Ordinance in accordance with subsections A, B, and C, above, the Board shall require such conditions as will assure the purposes and objectives of this Ordinance are met.

F. WAIVERS LIMITED

No other waivers of the provisions of this Ordinance may be granted, except as expressly authorized by this section.

G. WAIVER REVOCABLE

All waivers granted by the Planning Board under this Section of the Ordinance are revocable up to the date of Final Plan approval.

SECTION XXV: APPEAL TO SUPERIOR COURT

A. APPEAL TO SUPERIOR COURT

An appeal may be taken within thirty (30) days after any decision is rendered by the Planning Board, by any party to Superior Court in accordance with State Law.

SECTION XXVI: DEFINITIONS

A. CONSTRUCTION OF LANGUAGE

In this Ordinance, certain terms and words shall be interpreted as follows:

1. The words "persons" and "applicant" includes individuals, firms, associations, corporations, organizations, and similar entities;

2. Words used or defined in one tense or form shall include other tenses or derivative forms;

3. Words in the singular number shall include the plural number and words in the plural shall include the singular number;

4. The masculine gender shall include the feminine and the feminine shall include the masculine;

5. The word "shall" is mandatory;

6. The word "may" is permissive;

7. In case of difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

B. DEFINITIONS

For the purpose of interpreting this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

1. APPLICANT
The assessed owner or owners of land to be subdivided or person with documented right, title, or interest in the land to be subdivided.

2. BERM
A narrow shelf or path such as a ledge at the top of a ditch.

3. BOARD
The Planning Board of the Town of Waltham, Maine.

4. CLUSTER DEVELOPMENT
A subdivision or development in which the lot sizes are reduced below those normally required in return for the provision of permanent open space owned in common by lot and/or unit owners, the Town, or a land conservation organization, as allowed by the Planning Board.

5. **COMPLETE APPLICATION**
An application presented to the Planning Board which includes (1) receipt for fee paid; (2) completed application form; (3) Planning Board notification stating that all other submissions required herein for that type of application have been received and are satisfactory.

6. **COMPREHENSIVE PLAN OR POLICY STATEMENT**
Any part or element of the overall plan or policy for development of the Town as defined in Title 30-A, MRSA, Section 4311, et. seq., as amended.

7. **CONTIGUOUS LOTS**
Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of land on both sides thereof.

8. **DRIVEWAY**
Driveway shall mean a private way providing 4-wheel vehicular access from a public way to not more than two lots.

9. **EASEMENT**
The authorization of the property owner for the use by another, and for specified pupose, of any designated part of his property.

10. **ENGINEER**
Municipal Engineer or consulting engineer licensed by the State of Maine.

11. **FINAL PLAN**
The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, shall be recorded at the Registry of Deeds.

12. **FRESHWATER WETLAND**
Freshwater Wetlands shall be defined as in Title 38, MRSA, Sec. 480B, as amended, Natural Resources Protection Act. According to 1989 statutes, Freshwater Wetlands are defined as follows: "Freshwater Wetlands" means freshwater swamps, marshes, bogs and similar areas which are:

a. Of ten (10) or more contiguous acres, or of less than ten (10) contiguous acres and
adjacent to a surface water body, excluding any river, stream, or brook, such that in a
natural state, the combined surface area is in excess of ten (ten) acres;

b. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

c. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusion of land that do not conform to the criteria of this subsection.

Delineating standards shall be as per current rules and regulations of the Maine Department of Environmental Protection.

13. FRONTAGE

The linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of these regulations, the following ways shall constitute legal access to a lot along which frontage may be measured:

a. A way accepted by or established as belonging to the Town of Waltham, or the State of Maine, provided access is not specifically prohibited;

b. A way, whether dedicated to public ownership or not, as shown on an approved subdivision plan.

c. Frontage dimensions shall meet or exceed the minimum frontage required by the Town's Zoning Ordinance.

14. HIGH INTENSITY SOIL SURVEY

A Class A soil survey, conducted by a Certified Soil Scientist and prepared according to the standards of the National Cooperative Soil Survey, resulting in a soils map in which the mapping units are single phases of soils series and the mapping units delineated are contrasting soils of one eight (1/8) acre or less in size.

15. LEGISLATIVE BODY

Special or Regular Town Meeting.

16. LOT

Any separate or distinct unit of land, structure or part of structure, whether residential or non-residential, with a clearly separate but not necessarily different, use or intended use from the lot or lots adjacent to it, with the exception of auxiliary buildings for a single-family residence, not intended for

human occupancy. Included under this definition of a lot would be apartments, shopping centers, and groups of non-residential buildings with different uses, even if owned by the same person.

17. NET ACREAGE
The total acreage available for the subdivision or development, and shown on the proposed subdivision or development plan, minus the area for roads or access and the areas which are unsuitable for development.

18. NGVD
National Geodetic Vertical Datum.

19. NORMAL HIGH WATER ELEVATION OF INLAND WATERS
Along lakes, ponds, and streams, the elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial: along streams, the highest elevation on the bank of a channel at which the water has left a definite mark.

20. OFFICIAL MAP
The maps adopted by the Municipality showing the location of public property, ways used in common by more than two (2) owners of abutting property, and approved subdivisions; and any amendments thereto adopted by the Municipality or additions thereto resulting from the approval of subdivision plans by the Planning Board and the subsequent filing for record of such approved plans.

21. OFFICIAL SUBMITTAL DATE
The date upon which the Board issues a receipt indicating that a complete application has been submitted.

22. ONE-HUNDRED-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).

23. PERSON
Includes an individual, firm, association, partnership, trust, company, corporation, municipal or other local government entity, quasi-municipality, state agency, educational or charitable organization or institution or other legal entity.

24. PLANNING BOARD ORDER
A written decision of the Planning Board including findings of fact, conclusions of law, decisions, and conditions and/or terms of approval, if any.

25. PRELIMINARY SUBDIVISION PLAN

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

26. RECENT FLOOD PLAIN SOILS

The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

27. REPRODUCIBLE COPIES OF FINAL PLAN

Mylars, plastic film, or other durable, permanent, stable based, transparent material upon which Final Subdivision Plans are drawn and upon which the Planning Board affixes a stick-on approval block for their signatures at the time of final approval.

28. RIGHT-OF-WAY

A street or other area over which is given legal right of passage. A public right-of-way is a way dedicated to the use of the public and accepted for ownership by the Town of other level of government.

29. ROAD

Public and private ways such as Town ways, public rights-of-way, and private rights-of-way to 3 or more lots.

30. SUBDIVISION

As defined by Title 30-A, MRSA, Section 4401, as the same may be amended from time to time. See page 5, Section C.

31. SUBDIVISION, MAJOR

Any subdivision containing more than four (4) lots or dwelling units.

32. SUBDIVISON, MINOR

Any subdivision containing not more than four (4) lots or dwelling units.

33. SWALE

A hollow or depression especially in wet grounds.

34. TOWN

35. TRACT OR PARCEL OF LAND

All contiguous land 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.

Subdivision Fee Schedule

Subdivision	Fee	Comments
Minor	$100	1-4 lots
Major	$100 + $100 per lot	5 or more lots
Filing Security Deposit	$500	To be returned after Town receives a copy of the recorded plan
Technical Review Account	$200 per lot	

Effective