MUNICIPAL SUBDIVISION ORDINANCE

FOR

THE TOWN OF TROY

As Amended ~ August 2005

Troy Subdivision Ordinance Revision
2005
Errata

To make all references to prime farmland soils consistent, change the following two references:

On page 20, B 3 c and on page 31, C 3 d to "90% of all prime farmland soils"

TROY SUBDIVISION ORDINANCE
ENACTED, 1987
REVISED, 2004

CONTENTS

SECTION	TITLE	PAGE
I	GENERAL	
	A. Title and Authority	3
	B. Purpose	3
	C. Applicability	3
	D. Effective Date	3
	E. Conflicts, Validity & Severability	3
	F. Availability	4
	G. Application Forms	4
	H. Fees Charged	4
	I. Amendments	4
	J. Subdivision Defined	4
II	DEFINITIONS	4-7
III	REVIEW CRITERIA	8-9
IV	ADMINISTRATION AND GENERAL PROCEDURES	
	A. Administration	10
	B. Decisions	10
	C. Burden of Proof	10
	D. Additional Studies	10
	E. Rights not Vested	11
	F. Site Inspection	11
	G. Waivers	11
	H. Subdivision Review Process	11-12
	I. Revisions & Re-subdivision	12
	J. Appeals	12
	K. Public Hearings	12
	L. Joint Meetings	13
	M. Performance Guarantee	13
	N. Inspection Requirements	14
V	APPLICATION PROCEDURE	
	A. Pre-application & Sketch Plan	14-15
	B. On-site Inspection	15
	C. Preparation of The Preliminary Plan	15-17
	D. Review of The Preliminary Plan	18
	E. Preparation of The Final Plan	18-19
	F. Review of The Final Plan	19-20

Troy Subdivision Ordinance
Contents, cont.

SECTION	TITLE	PAGE
VI	PERFORMANCE STANDARDS	
	A. Conformity With Local Ordinances	20
	B. General Lot Requirements	20-21
	C. Monuments	21
	D. Water supply	21
	E. Fire Protection	21-22
	F. Subsurface Wastewater Disposal	22
	G. Erosion Control & Storm Water Management	22-23
	H. Waterbody Protection	23
	I. Phosphorus Control	23
	J. Ground Water	24
	K. Historical & Archeological Sites; Significant Wildlife Habitat; and Scenic, Rare or Natural Areas	24
	L. Financial & Technical Capacity	24-25
	M. Road Design & Construction	25-27
	N. Maintenance of Roads and Other Public Improvements	27
	O. Recreation Access	27-28
	P. Agricultural, Forest and Rural Resources ..	29
	Q. Rural Design & Landscaping	29
VII	OPEN SPACE DESIGN OPTION	29-32
VIII	ENFORCEMENT	32-33
	APPENDICES	34-39

Troy Subdivision Ordinance

SECTION I. GENERAL

A. Title and Authority
   1. This Ordinance shall be known as the Town of Troy Subdivision Ordinance and will be referred to as "this Ordinance".
   2. This Ordinance is a revision and update of the 1987 Subdivision Ordinance and has been prepared in accordance with the provisions of title 30-A MRSA Section 4401 to 4407.

B. Purpose
   The purpose of this Ordinance shall be to assure the comfort, convenience, safety, health and welfare of the people; to protect the environment; and to promote the orderly residential development of an economically sound and stable community.

C. Applicability
   1. The provisions of this Ordinance shall apply to all development considered a subdivision as defined by title 30-A, M..R.S.A., section 4401 and this Ordinance.
   2. This Ordinance defines subdivision: requires approval of any subdivision by the Planning Board, hereinafter referred to as "The Board", before work or sale may commence; establishes procedures for such approval; outlines requirements for preliminary and final subdivision plans; and establishes minimum standards for the design and construction of all subdivisions within the town.
   3. No person, firm, corporation or other legal entity may offer to sell or lease any land in a proposed subdivision as defined herein which has not been approved by the Board in accordance with all the regulation contained herein, nor shall such subdivision be recorded in the Waldo County Registry of Deeds until such approval by the Board is received.
   4. Once a lot is part of any approved subdivision, all the Performance Standards (Sec. VI) of this Ordinance shall apply to all future owners of that lot, insofar as such standards are applicable to future land use and development. A disclosure notice to this effect shall be included in the deed for each lot.

D. Effective Date
   1. This Ordinance shall take effect on , the date of its adoption by the voters of the Town of Troy.
   2. The Subdivision Ordinance of June 30,1987, shall be repealed upon adoption of this Ordinance.

E. Conflicts, Validity & Severability
   1. Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.
   2. Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

Troy Subdivision Ordinance
Section I, cont.

F. Availability
A certified copy of this Ordinance shall be filed with the town clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost to be charged to the person making the request.

G. Application Forms
The Board shall develop forms to be used by all applicants seeking subdivision approval.

H. Fees Charged
1. The applicant shall be charged a fee of $50 per lot or unit proposed. The application fee shall be paid to the town clerk upon submission of the Preliminary Plan. A receipt shall accompany the Preliminary Plan as proof of payment.

I. Amendments
1. Amendments to this ordinance may be initiated by a majority vote of the Board of Selectmen, the Planning Board or by written petition by a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election.
2. This ordinance may be amended by a majority vote of the legally constituted municipal governing body at a regular or special town meeting or by referendum ballot.

J. Subdivision Defined
A subdivision is defined in Title 30-A, M.R.S.A., Section 4401, as amended. See Appendix A of this Ordinance for full definition.

SECTION II DEFINITIONS

ABUTTER: the owner of any property with one or more common boundaries or across any bordering road or stream from the property involved in an application.

ADJACENT: located within 100 feet of the boundaries of the proposed subdivision.

AGGRIEVED PARTY: an owner of land whose property is directly or indirectly affected by the granting of or denial of a permit under this Ordinance; a person whose land abuts land for which a permit has been granted; or any other person or group of persons who have suffered particular injury as a result of the granting or denial of a permit.

APPLICANT: the person applying for subdivision approval (sometimes referred to as the "subdivider" or "developer").

BEST MANAGEMENT PRACTICES (BMP's): voluntary actions recommended by the state to address such environmental concerns as stormwater flow and erosion.

COMMERCIAL USE: the use of land or structures, other than a home occupation, where the intent and result of such use is the production of income from the buying and/or selling of goods and/or services, exclusive of rental of residential buildings or dwelling units.

COMMON OPEN SPACE: that portion of any proposed subdivision which has been excluded from development by dedication under the Recreational Access Performance Standard (Section VI, subsection Q2), or by dedication under the Open Space Design Option (Section VII) of this Ordinance.

COMPLETE APPLICATION: an application shall be considered complete upon submission of the required fee and a satisfactory review by the Board of all information required for a Preliminary or Final Plan.

COMPREHENSIVE PLAN OR POLICY STATEMENT: any part or element of the overall plan or policy for development of the municipality as defined in Title 30 M.R.S.A., Section 4961.

CONTIGUOUS LOTS: lots which adjoin at any line or point, or are separated at any point by a body of water less than 15 feet wide.

DEVELOPED AREA: any area on which a site improvement or change is made, including buildings, landscaping, parking areas, roads and driveways.

DIRECT WATERSHED OF A GREAT POND: the drainage area of a great pond excluding any portion draining through an upstream great pond.

DISCONTINUED TOWN ROAD: any road where public maintenance has been terminated, but a public easement has been retained.

DISTURBED AREA: all land areas that are stripped, grubbed or graded at any time during the development of the subdivision or construction activity on any lot.

DRIVEWAY: any private vehicular access to one or two dwelling units from a private road or from a maintained local or state road.

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

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

FOREST LAND: land that is at least 10% stocked with trees of any size, or land that formerly had such tree cover and is not currently developed for a non-forest use. The minimum area for such classification is 1 acre.

GRAVEL/SAND-BEARING SOILS: the following soils as identified on the Waldo County Soil Survey Maps: Masardis fine sandy loam (Mk), Adams loamy fine sand (Ad).

GREAT POND: a naturally occurring body of water whose surface area is greater than 10 acres, or a man-made impoundment greater than 30 acres.

IMPERVIOUS AREA: all land areas occupied by buildings or covered with low permeability materials associated with roads, driveways, parking areas, walkways and patios.

NATURAL RESOURCES PROTECTION ACT (NRPA):2002 amendment establishing 75-foot-wide buffer zone on all headwater streams and all wetlands containing peatland or more than 1/2 acre of permanent open water. The Act is adminstered by the DEP.

NET RESIDENTIAL ACREAGE: the total acreage available for the Subdivision as shown on the Preliminary Plan minus the area for roads and other areas where development is prohibited.

NET RESIDENTIAL DENSITY: the average number of dwelling units per net residential area.

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

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

PRELIMINARY PLAN: the preliminary map and supporting documents for the proposed Subdivision submitted to the Board for its consideration.

PRIME FARMLAND: land that is best suited for agriculture as identified by the U.S. Department of Agriculture.

PRIME FARMLAND SOILS: The following soils identified on the Waldo county soil Survey Map:

Bangor silt loam (BaB)	Madawaska fine sandy loam (MaB)
Boothbay silt loam (BoB)	Marlow fine sandy loam (MbB)
Dixmont silt loam (DxB)	Peru fine sandy loam (PaB)
Eldridge fine sandy loam (ElB)	

PRIVATE ROAD: any existing or proposed road which will be used, improved or constructed to provide access to three or more lots or dwelling units. Such a road is not subject to any public easement or maintenance responsibility.

PRODUCTIVE FARMLAND: land that has been used for crop production, including hay, improved pasture, fruit trees and Christmas trees, at any time during the past five years. The minimum area for such classification is one acre.

PROPERTY: one or more contiguous tracts, parcels or lots under the same ownership, as identified on the town's tax maps.

PROPERTY OWNER: the owner of land shall be determined to be that person listed on the property tax assessment records.

PUBLIC IMPROVEMENTS: the term shall include all roads, fire protection structures and ponds, any structure or land proposed to be dedicated to the Town, any land or structure which is offered as an easement to the Town, and all storm drainage structures which are designed to allow water to flow outside the property of the subdivision.

RE-SUBDIVISION: the division of any existing Subdivision or any change in the Plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider or current owner not indicated on the approved Final Plan.

SHORELAND ZONING ORDINANCE: regulations controlling land use activities within 250 feet of Unity and Carlton Ponds, Carlton Stream and certain freshwater wetlands; and within 75 feet of certain streams. They are administered by the Town.

SKETCH PLAN: conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial review by the Board prior to submitting an application for subdivision approval.

STREAM: a waterbody of perennial or intermittent character generally shown on USGS topographic maps and having two or more of the following channel features:

1. contains flowing water for at least 6 months
2. composed of a mineral bed
3. contains aquatic animal life
4. contains aquatic vegetation

SUBDIVISION: as defined in title 30-A, M.R.S.A. Section 4401.

TIMBERLAND: forest land producing or capable of producing crops of industrial wood (more than 20 cubic feet per acre per year) and not withdrawn from timber utilization. The minimum area for such classification is 1 acre.

WETLAND: a land area inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support a prevalence of wetland vegetation typically adapted for life in saturated soils. Includes forested wetland, scrubshrub swamp, bog, marsh and vernal pools. The minimum area for such classification is 0.1 (1 tenth) acre.

SECTION III REVIEW CRITERIA

The Board shall consider the following criteria and before granting approval must determine that:

A. The proposed subdivision will not result in undue water or air pollution. In making this determination, the Board shall at least consider:
   1. The elevation of the land above sea level and its relation to any flood plain,
   2. The nature of the soils and subsoils and their ability to support waste disposal,
   3. The slope of the land and its effect upon effluents, and
   4. The applicable state and local health and water resources rules and regulations.

B. The proposed subdivision has sufficient water available for the reasonable needs of the subdivision.

C. The proposed subdivision will not cause an unreasonable burden on an existing municipal or private water supply if one is to be used.

D. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water such that a dangerous or unhealthy condition results.

E. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of existing highways or public roads. Access to the subdivision by the use of any portion of a discontinued town road shall not be permitted.

F. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are used.

G. The proposed subdivision will not cause an unreasonable burden on the town's ability to dispose of solid waste if town services are used.

H. The proposed subdivision will not have an undue adverse effect upon any of the following resources as identified in the town's Comprehensive Plan:
   1. Areas of scenic or natural beauty
   2. Historic or archeological sites
   3. Significant wildlife habitat
   4. Rare or endangered species of plants and animals
   5. Public rights to physical or visual access to public lands or waters

I. The proposed subdivision conforms with all the applicable standards and requirements of this Ordinance, the town's Comprehensive Plan, other local ordinances, and all applicable state laws including, but not limited to, the Farmland Registration Act and the Tree Growth, Farmland and Open Space Tax Programs.

J. The subdivider has adequate financial and technical capacity to meet all the Review Criteria and the standards and requirements contained in this Ordinance.

K. Whenever situated entirely or partially within the watershed of a great pond, or within 250 feet of any great pond, river or wetland as defined in Title 38, 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, particularly Unity Pond, whose direct watershed has been classified as "most at risk".

L. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

M. The applicant shall determine whether the subdivision is in a flood-prone area as determined by the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps. If the subdivision, or any part of it is in a flood-prone area, the subdivider shall determine the 100-year flood elevation and the flood hazard boundary 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 the lowest floor, including the basement at least one foot above the 100-year flood elevation.

N. All freshwater wetlands within or adjacent to the proposed subdivision have been identified on all maps and plans submitted as part of the application. All wetlands shall be protected to the greatest extent possible.

O. Any portion of a river or stream within or adjacent to the proposed subdivision has been identified on any maps submitted as part of the application. All such portions of rivers or streams shall be protected from any adverse development impacts.

P. The proposed subdivision will provide for adequate storm water management and erosion control.

Q. All prime farmland within or adjacent to the proposed subdivision has been identified on the Preliminary Plan map. All prime farmland shall be preserved to the greatest extent possible.

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

S. Any proposed subdivision that crosses municipal boundaries will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in any adjoining municipality.

SECTION IV ADMINISTRATION & GENERAL PROCEDURES

A. Administration

The board shall administer this Ordinance and review all subdivision applications according to the applicable Review Criteria (Sec. III) and Performance Standards (Sec. VI).

B. Decisions

1. The Board shall determine if the subdivision application is complete before any public hearing or meeting is scheduled or the application is reviewed.
2. After review of a complete application, the Board shall determine whether or not the application meets the Review Criteria in Section III of this Ordinance. The Board shall make a written finding of fact to support its decision and vote to approve the application, deny the application, or approve the application with conditions.
3. If in its findings, the Board determines that the application may not meet the Review Criteria, and that additional actions by the applicant will be sufficient to meet them, it may require such actions as conditions of approval. The conditions may set forth requirements in addition to those set forth in this Ordinance only when the Board finds it necessary to further the purposes of this Ordinance. All conditions approved by the Board shall be listed along with the reasons for these conditions in the Board's decision and on the Final Plan.
4. The Board shall list any waivers approved by the Board both on its decision form, and on the Final Plan, with the reasons for such approval.
5. A legal vote of the Board shall be a majority of those Board members present and voting.

C. Burden of Proof

The applicant shall have the burden of proof to show the proposed subdivision application meets the applicable Review Criteria and standards of this Ordinance.

D. Additional Studies

The Board may require the applicant to perform additional studies or hire a consultant to review portions of, or the entire subdivision application. The cost to perform additional studies or hire a consultant shall be borne by the applicant. The Board may require the applicant to deposit with the town treasurer the estimated cost of any consultant or additional study. Such deposit will be placed in an escrow account from which the town shall pay for the services rendered and reimburse the applicant, if funds remain after payments are completed. The applicant shall place additional funds into the escrow account in order to meet expenses if required.

E. Rights Not Vested
The submittal of a Sketch plan or a Preliminary Plan to the Board to review for a complete application shall not be considered the initiation of the formal review process for the purposes of bringing the application under the protection of Title 1, M.R.S.A., Section 302. The formal review process shall begin upon written notification to the applicant from the Board that a complete application has been received.

F. Site Inspection
1. At the time of the Sketch Plan meeting, the Board shall schedule a mutually convenient joint site inspection.
2. The purpose of the site inspection is for the Board to obtain knowledge about the site and surrounding area. The Board shall not discuss the merits of the application or render any decision concerning the application during the site inspection. Onsite inspection may be postponed when ground is snow covered.

G. Waivers
1. The Board may vote to waive any of the Review Criteria and/or Performance Standards when it finds one of the following:
   a. One or more of the Review Criteria and/or Performance Standards are not applicable to the proposal due to the size of the project, site characteristics, project design or unique features of the proposal.
   b. The applicant has proposed an alternative design that meets or exceeds the Performance Standards of this Ordinance.
2. The applicant may submit a waiver request with appropriate documentation during the application process.
3. The Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. Consideration of a waiver request shall be the first item of the application review. If the request meets the criteria for a waiver, the Board shall approve the request. If the Board finds that the request does not meet the waiver criteria, the Board shall deny the request. The applicant shall amend the application as required if the waiver is not approved by the Board. The Board may vote to suspend review of the application until the applicant provides any information necessary as a result of not obtaining the waiver. In no case shall the Board make a final decision upon the application until the applicant supplies the required additional information to the satisfaction of the Board.
4. Any waiver approved by the Board shall be listed on the Final Plan map and when so directed by the Board shall be included in the property deeds for each subdivision lot.

H. Subdivision Review Process
1. All subdivision applicants will be required to follow a three-tiered review process as follows:
   a. Sketch Plan Review
   b. Preliminary Plan Review
   c. Final Plan Review

2. The Board may vote to allow the applicant to submit a Final Plan for review directly after the Sketch Plan review meeting. In such an event, all of the procedures and requirements of a Preliminary Plan shall be observed in preparing such a Final Plan.

I. Revisions and Re-Subdivisions

1. After approval of a plan by the Board, any additional division of land within or contiguous to that plan or any changes to lots or privately owned rights of way created by the subdivision shall be classified as a subdivision and shall be subject to the full requirements of this Ordinance for review and approval.
2. The Board may adjust the review process to accommodate revision applications involving only minor modifications to an approved plan.
3. The Board's scope of review shall be limited to those portions of the Final Plan which are proposed to be revised or that are adversely impacted by the proposed revisions.
4. All approved re-subdivisions or revisions shall be recorded at the Waldo County Register of Deeds by the applicant.

J. Appeals

An aggrieved party may appeal any final decision of the Board under this Ordinance initially to the Troy Board of Appeals within 30 days of the date of the formal decision of the Board in accordance with title 30-A M.R.S.A., Subsection 2411, or, subsequently, to the Superior Court.

K. Public Hearings

1. The Board may hold a public hearing on any Preliminary or Final Plan application in order to receive public comment and information concerning the application.
2. The Board may hold a public hearing within 30 days after determining that the application is complete, and a notice of the date, time and place of the public hearing shall be:
   a. Published at least two times in a newspaper having general circulation in the municipality. The date of the first publication shall be at least 7 days before the hearing.
   b. Mailed by certified, return receipt mail to the applicant, at least 7 days prior to the public hearing.
   c. Mailed by certified, return receipt mail to all property abutters, at least 7 days prior to the public hearing. The Board shall maintain a list of all property abutters and record the date the notice was mailed. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Board to schedule a new public hearing.
3. The Board may vote to continue the public hearing in order to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

L. Joint Meetings

If any portion of a proposed subdivision crosses municipal boundaries, the Board shall follow the notice, meeting and review requirements specified in Title 30-A, M.R.S.A. Sections 4401-4407.

M. Performance Guarantee

1. A performance guarantee shall be required for all public improvements proposed for the subdivision. The applicant shall submit a proposal for the performance guarantee at the time of submission of the Final Plan.
2. The performance guarantee shall include one of the following:
   a. A certified check, in an amount equal to the expense of installing the public improvements, made payable to the Town.
   b. A performance bond issued by a surety company, in an amount equal to the expense of installing the public improvements, made payable to the Town.
   c. A conditional agreement with the Town, whereby no lot in the subdivision may be sold and no building permit issued until the applicant installs all public improvements. A phase development plan may be incorporated into the conditional agreement.
   d. An irrevocable letter of credit from a bank or other lending institution which shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.
3. The Board, prior to approval of the Final Plan, shall consult with the Selectmen on the terms proposed by the applicant for the performance guarantee. The Selectmen may recommend that the amount of the certified check or performance bond or the terms of the performance guarantees be amended or revised. The Board shall consider the recommendation of the Selectmen and decide on the contents of the performance guarantee.
4. Prior to the release of the performance guarantee, the Board shall determine that the public improvements have met or exceeded the design and construction requirements specified in this Ordinance and the subdivision plans. The Board shall base its decision upon the inspection reports filed by the Code Enforcement Officer, other municipal officials or other designated inspector.
5. If the Board, Code Enforcement Officer, or other designated inspection official finds that any of the public improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall report this condition to the Selectmen. The Selectmen shall take any steps necessary to preserve the Town's rights.

N. Inspection Requirements

1. The Code Enforcement Officer shall be responsible for conducting and/or coordinating all inspections with other municipal officials. The following municipal officials shall perform the following inspections:
   a. The Road Commissioner shall inspect all roads including roads to be considered for public acceptance and private roads and associated drainage systems. All roads proposed for public acceptance shall also be inspected by a professional engineer as per the road performance standards contained in this Ordinance.
   b. The Local Plumbing Inspector shall inspect the installation of all subsurface waste water treatment systems.
   c. The Code Enforcement Officer shall inspect all erosion control measure, storm water management features, and all other site features.
2. The applicant shall be responsible for scheduling all inspections with the Code Enforcement Officer. The Code Enforcement Officer and all other inspection officials shall keep a record of all inspections, noting all deficiencies. It shall be the responsibility of the Code Enforcement Officer to notify the applicant in writing that a deficiency exists and the steps necessary to remedy the situation. The Code Enforcement Officer shall notify the Board and the Selectmen whenever the applicant fails to remedy a deficiency. Upon completion of the subdivision and/or consideration of release of the performance guarantee, all inspection reports shall be made available to the Board and the Selectmen.
3. The applicant shall notify the municipal officers in writing of the proposed schedule for the construction of public improvements so that the proper inspections can be made during construction to assure compliance with the Performance Standards of this Ordinance.
4. Before the applicant may be released from any obligation requiring a guarantee of performance, the Board will require certification from the Selectmen to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards of this Ordinance and other state and local codes.

SECTION V: APPLICATION PROCEDURE

A. Pre-application and Sketch Plan

1. Prior to the submission of a subdivision application, the subdivider or his/her authorized agent shall appear informally before the Board at a regularly scheduled meeting to discuss the proposed subdivision. At this meeting the subdivider shall present the following maps:
   a. site plan in simple sketch format
   b. copy of the tax map of the site and adjacent area
   c. copy of the USGS topographic map with property outlined
   d. copy of Waldo County Soil Survey photo map with property outlined

2. The submittal of a Sketch Plan shall not be considered the initiation of the review process for the purpose of bringing the proposed subdivision under the protection of Title 1, M.R.S.A., section 302.
3. Upon receipt of the Sketch Plan materials, the Board will provide the subdivider with an application form and will discuss application procedures. Specific requirements may vary according to the size and complexity of the subdivision proposed. In some instances the Board may waive the requirement for a Preliminary Plan.

B. On-site Inspection

In order for the Board to be more fully informed about the site, the Board and the subdivider shall arrange a joint inspection of the site. An individual appointed by the Chairperson may act as the Board's representative for the inspection. The on-site inspection shall be completed prior to the Board's review of the Preliminary Plan. The Board shall not discuss the merits of the application during the on-site inspection.

C. Preparation of a Preliminary Plan

1. Procedure:
   a. Within 6 months after the Sketch Plan meeting, the subdivider or authorized agent shall submit 3 copies of a Preliminary Plan to the Board. The Plan shall include a properly executed and signed application form, a map and other supporting data including a copy of the receipt from the Town Clerk or Treasurer,verifying payment of fees. In the event that the Board has voted to waive the preparation of a Preliminary Plan, the applicant shall submit the required Final Plan within 6 months of the Sketch Plan meeting.
   b. Failure to submit the Preliminary Plan within the designated time period shall require the submission of a new Sketch Plan.
   c. As soon as possible after receipt of the Preliminary Plan, the Board shall notify by first class mail all abutting property owners of the proposed subdivision. The notice shall include the location of the subdivision, a general description of the project and an invitation to attend a Board meeting and to view the Preliminary Plan application at the town office.
   d. Whenever the proposed subdivision abuts another municipality, the Town Clerk of that municipality shall also receive a notice from the Board.
   e. A list of all persons notified and a sample notification shall be maintained as part of the subdivision application.

2. Preliminary Plan Map

A Preliminary Plan Map shall consist of one or more maps drawn to a scale not larger than 1"=100', nor smaller than 1"=400', and showing the following:

   a. A survey made and certified by a registered land surveyor of the perimeter of the property, giving complete descriptive data by bearings and distances. The corners of the property shall be located on the ground and marked with permanent markers. The type of marker shall be indicated on the map.

Troy Subdivison Ordinance
Section V, C, 2,,cont.

b. Name of the proposed subdivision plus name and address of owner/subdivider.
c. The deed book/page and the tax map/lot information for the property.
d. Total surveyed acreage, proposed lot lines, and acreage for each lot.
e. Contour lines at 10' intervals unless otherwise specified by the Board.
f. Location and extent of all natural features within & adjacent to the property, including:
   1) woodland, field, pasture & brush
   2) streams, ponds & wetlands (including vernal pools)
   3) prime farmland & significant sand/gravel aquifers
   4) flood hazard area & 100-year flood elevation as depicted on the town's Flood Insurance Rate Map (FIRM).
   5) town Shoreland Zoning districts & NRPA stream/wetland buffer zones
   6) significant wildlife habitat as mapped by DIF&W
   7) sites of rare/threatened/endangered plants & animals as identified in the town's Comprehensive Plan
   8) scenic areas as identified in the town's Comprehensive Plan
g. Location and extent of all **existing** improvements within & adjacent to the property including:
   1) buildings, wells, water systems & waste disposal systems
   2) public & private roads, trails & entry points
   3) power and telephone lines
   4) easements & rights of way
   5) gravel pits and other significant disturbances of natural features
h. Location & extent of all **proposed** improvements within or adjacent to the property as listed in (7), plus test pits or borings for subsurface wastewater disposal systems.
i. Location of any site or structure listed on the National Register of Historic Places, or any archeological site identified by the State Historic Preservation Commission or in the town's Comprehensive Plan.
j. Location of any erosion control, stormwater control or phosphorus control features proposed for the property.
k. Location of any proposed fire control features.
l. Identification of any lot to be held in joint ownership or proposed to be offered to the town for common open space or outdoor recreation purposes.

Troy Subdivision Ordinance
Section V,C, cont.

3. Supporting Data & Documents
   a. The applicant is responsible for supplying all the necessary information to show the proposed subdivision is in compliance with the Review Criteria and requirements and Performance Standards contained in this Ordinance. The Preliminary Plan submissions shall consist of the following:
      1) A receipt from the Town indicating that the application fee has been paid
      2) A Preliminary Plan application form and all required attachments and maps
      3) Waiver request form, if applicable
      4) A location map drawn at an appropriate scale showing the relationship of the proposed subdivision to nearby properties and existing or proposed roads as per the Troy Enhanced 911 Road Name & Number system.
      5) A copy of the deed or deeds upon which the survey was based and indicating ownership of the proposed subdivision, and the details of covenants, easements, rights-of-way or other encumbrances currently affecting the property.
      6) Evidence as to the adequacy of the proposed water supply (nearby well logs, etc.)
      7) If the subdivision is not to be serviced by a public sewer line, then an on-site soils investigation report by a soil scientist certified by the Department of Human services is required. This report will describe the location and types of soils tested and recommend the most appropriate subsurface sewage disposal system for each lot.
      8) A statement indicating how solid waste from the subdivision will be handled.
      9) Any applicant request for a waiver of Review Criteria or Preliminary Plan requirements.
      10) A plan indicating how all public improvements (if any) will be maintained over their lifespan or until accepted by the town.
      11) Road plans and specifications and appropriate documentation.
      12) Traffic access data for the site, including an estimate of the amount of vehicular traffic to be generated daily.
      13) Documentation indicating that the subdivider has the financial and technical capacity to meet the requirements of this Ordinance.
      14) A list of the anticipated types of land use that will be developed within the proposed subdivision.

   b. The Board may require that the subdivider make other studies and provide other data that it deems necessary or applicable to protect the health, safety and welfare of the citizens of Troy, including the future occupants of the subdivision.

D. Review of Preliminary Plan
   1. The Board shall review the Preliminary Plan application within 30 days of its receipt and shall notify the applicant that the application is complete or incomplete. If the application is incomplete, the notification shall include a list of the specific material required to make the application complete. The review for completeness shall not include a review of whether or not the material in the application is sufficient to meet the subdivision Review Criteria.
   2. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If a public hearing is to be held, it shall be shall be scheduled within 30 days of the date the application was judged to be complete.
   3. Within 30 days of the public hearing or meeting, the Board shall make a decision to approve, approve, the application with conditions or deny the application. The Board shall notify the applicant in writing of its decision.
   4. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather shall be deemed an expression of approval of the general design and as a guide for preparation of the final Plan.

E. Preparation of a Final Plan
   1. General Procedure
      a. The Final Plan shall be submitted within 6 months of the approval of the Preliminary Plan.
      b. Within 30 days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific material needed to complete the application.
   2. Final Plan Map
      The Final Plan Map shall consist of the 2 stable-based transparencies plus three paper copies and shall show the following:
      a. All information required in the Preliminary Plan map including any Board approved modifications or waivers.
      b. Name, registration number and seal of any architect, engineer, surveyor or other professional person responsible for the preparation of the Final Plan map.
      c. Location, size and landscaping of such parks or other open spaces as may be proposed or prescribed.
      d. Suitable space to record the signatures of Board members, date of approval.
      e. Location and type of permanent markers set at all lot corners.
      f. Statements detailing any Board-approved waivers, conditions or modifications.
      g. A statement indicating that all present and future lot owners are required to comply with all the applicable Performance Standards of Section VI of this Ordinance.

h. If the subdivision is serviced by existing or proposed private roads, a statement indicating that such roads are not eligible for acceptance by the Town of Troy, unless the roads are improved to meet the appropriate standards for road acceptance.
i. A statement indicating how such private roads are to be maintained.
j. If any part of the subdivision is within a Flood Hazard area, a statement indicating that all principal structures hereinafter constructed or placed therein shall be so located that their lowest floor, including the basement, is at least one foot above the 100-year flood level.

3. Supporting data & documents shall include:
   a. A performance guarantee, if applicable.
   b. Copies of any documents of open space dedication and written evidence from the Selectmen approving the legal sufficiency of such documents.
   c. If the proposed subdivision includes plans for the construction of private roads or driveways which access state highways, an approved entrance permit shall be obtained.
   d. An appropriate deed disclosure notice identifying the subdivision status of all lots.

F. Review of Final Plan
1. Within 30 days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific material needed to complete the application.
2. The Board shall schedule a public hearing or a meeting to review the Final Plan within 30 days of determining it has received a complete application.
3. Within 30 days of the public hearing or meeting, the Board shall make a decision on the application. The Board shall vote to approve, approve with modifications or deny the Final Plan. The Board shall notify the applicant in writing of its decision.
4. Upon voting to approve the Final Plan, the Board shall sign the 2 stable-based transparencies, retaining one copy and providing the other to the applicant. The applicant shall file the approved final Plan map original with the Registry of Deeds within 90 days of the date of approval Failure to file within 90 days shall make the final Plan null. Final Plans not filed in the appropriate time shall be re-submitted to the Board according to the requirements of this Ordinance.
5. The applicant shall provide the Town proof that the subdivision plan was filed with the Registrar of Deeds and shall submit to the Tax Assessors a copy of the Plan showing the proposed lots which corresponds to the scale of the town tax map showing the subdivision.

6. The Board shall notify the Selectmen, Road Commissioner, Fire Chief, Constable, Code Enforcement Officer and School Superintendent of the proposed subdivision, describing the number of lots and dwelling units, the length of roadways, the size and construction characteristics of any multi-family residential buildings, and the nature of any fire control features. The Board shall request that these officials comment upon the adequacy of their departments' existing capital facilities to service the proposed subdivision.
7. No Final Plan shall be approved by the Board as long as the applicant is in default on a previously approved Final Plan.

SECTION VI PERFORMANCE STANDARDS

A. Any proposed subdivision shall be in conformity with this Ordinance and all applicable local laws, ordinances and regulations.

B. General Lot Requirements
   1. The following minimum dimensional requirements shall apply to all subdivision lots:

Minimum Lot Size	*2 acres*
Minimum Road Frontage	*200 feet*
Maximum Lot Depth to Width Ratio	*5:1*
*Side Property Line Setback (dwellings)**	*25 feet*
*Rear Property Line Setback (dwellings)**	*25 feet*
*Front Setback (measured from the road centerline) (all structures)**	*80 feet*
Multi-family Density Standards	*4 acres for the first two dwelling units plus 1 acre for each additional unit*

   2. Subdivisions designed according to the Open Space Design Option may modify the minimum dimension requirements according to the standards contained in Section VII of this Ordinance.
   3. Land located within the following areas as delineated on the Preliminary Plan map shall not be used to calculate the net residential acreage available for development:
      a. wetlands, streams, and storm water drainage features
      b. any acres within the Resource Protection District of the town's Shoreland Zoning Ordinance.
      c. 90% of all prime farmland soils
      d. Areas within the floodway as defined in the Town's Floodplain Management Ordinance and Flood Insurance Rate Maps.
      e. Areas within public and private rights of way.
      f. Slopes greater than 25%

4. Residential structures shall not be located within 100 feet of the following abutting land use categories:
   a. Prime farmland
   b. Productive farmland
   c. Registered farmland
   d. Land classified under the Open Space tax Program
   e. Timberland
   f. Town forest land
   g. Carlton Pond Waterfowl Production Area
   h. Gravel pits or sand/gravel-bearing soils

5. These general lot requirements shall apply not only to the original subdivider, but also to all future subdivision lot owners.

C. Monuments:
Permanent markers as required by the Maine Board of Registration of Land Surveyors shall be installed at the following:
1. At all road intersections and points of curvature, but no farther than 750 feet apart along road lines without intersections or curves.
2. At all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
3. At all other subdivision boundary corners and angle points as well as lot boundary corners and angle points.

D. Water Supply
1. Individual wells shall be sited and constructed to prevent infiltration of surface water, contamination from subsurface wastewater disposal systems and other sources of pollution. The lot design shall permit the placement of wells, subsurface wastewater disposal systems and reserve areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
2. The water supply for the subdivision and each lot shall be adequate to supply all the potable and other water requirements of the development. The applicant shall submit documentation from a hydrologist or a well driller familiar with the area, stating that adequate water is available to supply the subdivision.
3. Wells supplying drinking water to dwellings shall not be located within 300 feet of prime farmland soils.

E. Fire Protection
1. The proposed subdivision shall be designed so that the Troy Fire Department has unrestricted access to all developed areas within the subdivision, and adequate provisions are made for a supply of water for fire suppression.

2. The applicant shall review the proposed subdivision with the Fire Chief and shall obtain a written statement from the Fire Chief approving the planned fire protection measures. This statement shall be submitted with the Preliminary Plan Application.
3. The Fire Chief, in determining that adequate provisions have been made for fire protection shall consider the following:
   a. All proposed roads are adequate for the passage of fire equipment.
   b. An adequate supply of water is available within or near the subdivision to serve the density and type of development.
4. The Fire Chief shall approve the fire protection measures proposed for the subdivision or shall make specific recommendations to improve the fire protection measures. In making such recommendations, the Fire Chief may recommend the installation of fire ponds, fire breaks or other similar features.

F. Subsurface Wastewater Disposal Systems
1. The applicant shall submit evidence of site suitability for subsurface wastewater disposal systems prepared by a licensed site evaluator in compliance with the Subsurface Wastewater Disposal Rules of the State of Maine. All test pits or test boring locations shall be shown on the Preliminary Plan and be accompanied by an HHE 200 Form or other format which shows the appropriate soils data.
2. In no instance shall a disposal area for a lot or structure require a New System Variance from the Subsurface Wastewater Disposal Rules. Holding tank systems shall not be allowed to serve new lots or structures. Alternative wastewater disposal systems which comply with State rules may be allowed by the Board.

G. Erosion Control and Stormwater Management
1. All activities which involve filling, grading, excavation, vegetation clearing or other similar activities which result in unstabilized soil conditions or increased flow of surface water shall comply with the following:
   a. The site shall be developed to prevent soil erosion from entering waterbodies, wetlands, stormwater drainage features and adjacent land. All temporary and permanent erosion control measures shall be designed in accordance with the Maine Erosion and Sediment Control BMP's Handbook, published in March, 2003, by the Department of Environmental Protection (DEP), or as most recently amended.
   b. All temporary and permanent erosion control features shall be shown on the Preliminary Plan map.
   c. All disturbed areas shall either be revegetated or converted to impervious areas within one year of the date of disturbance.

2. All construction and development shall be designed to minimize storm water runoff from the site. Where possible existing natural runoff control features shall be retained in order to reduce runoff and encourage infiltration. A stormwater control plan shall be developed by a professional engineer for the site according to the following standards:
   a. Assess the need for providing easements or drainage rights of way within the subdivision and over adjacent properties.
   b. Limit peak stormwater discharges from the site to predevelopment levels through a system of swales, culverts, and best management practices equivalent to those described in the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995, or as most recently amended.
   c. Peak discharges shall be limited to the predevelopment levels for the 2-year, 10-year and 25-year frequency, 24-hour duration storm.
   d. A stormwater control plan that is developed according to the requirements of the Department of Environmental Protection Regulations, Chapter 500 (Stormwater Management) and Chapter 502 (Direct watersheds of Waterbodies Most at Risk from New Development) shall be deemed to be a suitable equivalent to these standards.

H. Waterbody Protection
   1. The location and extent of all ponds, rivers, streams and wetlands within or adjacent to the proposed subdivision shall be identified on the Preliminary Plan map. This shall include all perennial and intermittent streams and forested and non-forested wetlands.
   2. Waterbodies shall not be developed or disturbed unless the applicant can provide evidence that no other alternative exits. Any development planned within 75 feet of the high-water line of any waterbody. including wetlands, shall require a plan which includes the following:
      a. A description of the proposed development including the reasons why this is the only alternative.
      b. Construction drawings of the disturbance area showing all structures, fill area, vegetative disturbance and erosion control measures.
      c. A list of any local, state and federal permits required.

I. Phosphorus Control
Construction activity in any proposed subdivision within the direct watersheds of Unity Pond or Carlton Pond requires a phosphorus control plan to be developed in accordance with the design criteria contained in the 1992 DEP publication, Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, or as most recently amended.

J Groundwater

1. Any development proposed within a sand and gravel aquifer as identified in the Town's Comprehensive Plan, shall be designed and constructed according to a plan which takes into account the impact of the development upon the aquifer.
2. The Board may require the applicant to provide a plan developed by a hydrologist which shows that the proposed development will not have an adverse impact upon the aquifer. The Board, in making the determination that a plan be required, shall consider the density of the development and existing conditions or problems within the area.

K Historic and Archeological Sites; Wildlife Habitat,and Scenic, Rare or Natural Areas

The subdivision plan shall show the locations of any historic and archeological sites, significant wildlife habitat, scenic areas and rare or natural areas as identified in the town's Comprehensive Plan. If any of these areas are located on the site, a protection plan shall be developed in accordance with the following:

1. If any portion of the site is designated as a significant archeological or Historic site by the Maine Historic Commission, the town's Comprehensive Plan, or is listed on the National Register of Historic Places, the applicant shall develop appropriate measures for the protection of these resources according to local, state and federal regulations.
2. If any portion of the site is located within an area designated as a scenic area or a unique natural area by the Maine Natural Areas Program or the Town of Troy, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the site is within a significant wildlife habitat area, the applicant shall consult with the Maine Department of Inland Fisheries and Wildlife (DIF&W) or a qualified wildlife biologist to develop measures to protect these areas from environmental damage and habitat loss. Significant wildlife habitat areas shall include the following:
   a. Habitat of endangered or threatened species appearing on the official state or federal list of endangered or threatened species.
   b. High or moderate value waterfowl and wading bird habitats as defined by the DIF&W.
   c. Deer wintering areas as identified by the DIF&W.

L. Financial and Technical Capacity

The applicant shall submit evidence of adequate financial and technical capacity to design and construct the development in accordance with all applicable local, state and federal laws and regulations. Evidence of adequate financial and technical capacity shall consist of the following:

1. A list of all technical and professional staff involved with the proposal and preparation of the application, including their qualifications and recent experience with projects of similar size and scale.

2. A list of all persons with inspection and oversight responsibilities for the development and, if available, the persons selected to construct the project, including their qualifications and past experience with projects of similar size and scale.
3. A letter from a financial institution such as a bank or other lending institution that states that the applicant has the necessary funds available or a loan commitment from this institution to complete the proposed development within the time period specified by the applicant.

M. Road Design and Construction

1. General
   a. All lots within the proposed subdivision shall have frontage on, or deeded access to, a private road or a publicly maintained local or state road.
   b. All proposed private roads within the subdivision shall be considered public improvements and shall be designed and constructed according to the applicable standards contained in this Ordinance.
   c. Any private road outside of the subdivision providing access to the proposed subdivision shall also be considered a public improvement subject to the design and construction standards of this Ordinance.
   d. Access to any proposed subdivision by the use of any portion of a discontinued town road shall not be permitted.
   e. Access to any proposed subdivision containing 5 or more lots or dwelling units shall be restricted to a paved local or state road.
   f. Any dead-end road within a proposed subdivision shall include turn-around areas at every 1,000-foot interval. The design of the turn-around area shall be approved by the Board, and it shall be capable of permitting a standard sized school bus to turn around. Any dead-end road shall terminate at an L-shaped turn-around as specified in Appendix B of this Ordinance.
   g. All roads and driveways shall be designed to accommodate the constraints of terrain and to consider the existing or potential development on adjacent properties.
   h. The applicant shall submit a detailed design and construction plan for all proposed roads as part of the Preliminary Plan application.

2. Construction Standards:
   a. The right-of-way width for all proposed roads shall be 66 feet. The centerline of the travel way shall be the centerline of the right-of-way.
   b. The travel way shall be a minimum of 20 feet.
   c. The radius of centerline curves shall be a minimum of 175 feet.
   d. The angle of road intersections shall be as close to 90 degrees as possible, but in no case less than 60 degrees.
   e. Road grades shall be no greater than 10%, nor less than 0.5%.
   f. Maximum road grade within 75 feet of an intersection shall not exceed 3%.

g. Dead-end roads shall terminate at a turn-around as specified in Appendix B.

h. All roads shall be provided with adequate drainage facilities to provide for removal of stormwater and to prevent flooding of the road surface and erosion of adjacent soils.

1) Culverts shall be sized according to the requirements of their respective drainage areas, with a minimum diameter being 15 inches. Culverts shall be installed at ditch/stream bed elevation.

2) Ditch relief culverts shall be spaced along the road at intervals no greater than 250 feet for a 0-2% grade, 170 feet for a 3-5% grade and 90 feet for a 6-10% grade.

3) Ditch relief culverts shall empty into a buffer strip that is designed and constructed according to the stormwater management performance standards contained in this Ordinance.

4) All drainage structures and features shall be stabilized to prevent erosion according to the erosion control performance standards contained in this Ordinance.

i. Cut or fill side slopes shall not be steeper than 33%. All side slopes shall be graded, seeded and mulched.

j. Before any clearing of the right-of-way is begun, the centerline and sidelines of the road shall be staked, and flagged at 50-foot intervals. Trees and brush shall be cut and removed from the right-of-way before excavation begins. All stumps, roots, and rocks greater than 6" in diameter shall be removed from the prepared surface.

k. Gravel roads shall have a 12" subbase course consisting of gravel that meets MDOT standard specification 703.06960-Type D and the upper base shall consist of a 6 inch gravel course that meets MDOT standard specification 703.10-aggregate for leveling course.

l. Road crown shall be 1/4 inch per foot of lane width.

m. An MDOT-approved geotextile fabric mat shall be used when the road crosses soils with a seasonally high water table or unstable soils.

n. Paved roads shall have a total of 3 inches of Bituminous pavement consisting of a 1 3/4 inch base and a 1 1/4 inch surface. The minimum standards for the base course shall be MDOT plant grade mix B with an aggregate size of no more than 3/4 inch maximum. The minimum standard for the surface course shall be MDOT plant grade mix C or D with an aggregate size of no more than 1/2 inch maximum.

o. Any proposed subdivision road having access to a paved local or state road shall be paved for a distance of 75 feet at the intersection, as measured from the edge of the existing pavement.

p. Driveways shall have a minimum travel surface of 12 feet, and shall provide outdoor parking and turn-a-round space for 3 vehicles to avoid the safety hazard of traffic backing onto a public or private road.

q. Driveways shall be upgraded to road standards whenever 3 or more dwelling units are accessed by the driveway. Such upgrades shall be the responsibility of the extant property owner.
r. Driveways that access directly onto local or state maintained roads shall not be located within 100 feet of an existing intersection or other driveway, unless conditions warrant otherwise.
s. All proposed roads and driveways shall provide adequate sight distance when they access onto an existing or proposed road. The sight distance shall be provided in both directions for a distance equal to 10 feet for each mph of the posted speed limit.

N. Inspection and Maintenance of Roads and Public Improvements

1. All roads and other public improvements that are not dedicated to the town, or prior to the actual acceptance by the town, shall be maintained by the subdivision developer or owners. A legal agreement indicating how the infrastructure will be maintained shall be submitted to the Board with the Final Plan. The Board shall review the maintenance plan to ensure sufficient provisions have been incorporated to maintain all improvements for the applicable time period.
2. In addition to the inspection requirements listed in Section IV, Subsection N of this Ordinance, all roads considered for public acceptance shall meet the following inspection requirements:
   a. The applicant shall at his/her expense hire a professional engineer licensed in the state of Maine, to inspect the roadway construction. The engineer shall inspect the roadway during construction and certify in writing that the road was installed according to the subdivision plans and the requirements of this Ordinance.
   b. The applicant shall submit the engineer's report to the Selectmen and the Board. The report shall certify that the road meets or exceeds the subdivision plan and ordinance requirements.
   c. Upon receipt of the engineer's certification and the inspection reports from the Code Enforcement Officer and the Road Commissioner, the Selectmen may consider presenting a warrant to the town meeting an article for public acceptance of the road.

O. Recreational Access

1. Outdoor recreational access is an important feature of Troy's rural heritage. All subdivision proposals consisting of 5 or more lots or dwelling units shall provide for the enhancement or development of a variety of outdoor recreation opportunities. Since new subdivisions and the associated housing and other development they foster can compete with existing open space, scenic and other attributes of rural communities, each new subdivision shall provide for neighborhood or community outdoor recreation opportunities. A recreation plan designed to serve the subdivision residents shall be developed which includes one of the following options:

a. A minimum of 10% of the land within the subdivision is dedicated as common space. Suitable easements and/or deed restrictions shall be proposed to preserve the land from development. The land deemed not suitable for development according to the Performance Standards of this Ordinance shall not be included in the 10% set-aside.
b. A parcel of land consisting of at least 2 acres and having a minimum of 200 feet of shore frontage on a great pond is dedicated for recreation. The parcel shall be suitable for either boat access or swimming. Trails, rights-of-way or other similar easements shall be provided to ensure access for residents.
c. A multi-purpose trail system which can reasonably be accessed by each lot is constructed. The trail should be designed to accommodate one or more of the following: walkers, cross-country skiers or snowmobilers. Whenever possible the trail should provide links to existing trails or snowmobile routes.
d. An active recreation area consisting of at least two of the following:
   Playground for small children
   Baseball field
   Tennis court (minimum of 2 courts)
   Basketball court (full size)
   Multi-purpose field
e. A combination of recreational options is developed. The applicant may propose to offer a combination of recreational sites consisting of a portion of some of the options listed above. The Board shall review this combination option to ensure that the intent of this section is met. *Example: an applicant may propose to construct a playground and dedicate 5% of land for passive recreation.*
f. A payment into the Town of Troy Park and Recreation or Town Forest account to be used exclusively for the purchase, development or maintenance of new or existing parks, playgrounds or other recreational facilities. The amount of such payment shall be $300 for each lot or dwelling unit approved in the Final Plan.

2. Land for the recreational sites may be offered to the Town for public acceptance or may be owned in common by the subdivision lot owners. The applicant may also propose to dedicate the recreation areas to a third party that is incorporated for the purpose of maintaining land for conservation and preservation use. In either case, the following provisions shall be made:
   a. All land proposed for recreation purposes shall be protected by a suitable deed restriction that prohibits development and preserves the land for future inhabitants.
   b. All recreational areas to be owned in common shall include a maintenance plan and mandatory association agreement in each of the subdivision lot deeds.
   c. The Board shall review all proposed ownership arrangements to ensure that the long--term maintenance and conservation of the recreational sites is provided.

P. Agricultural, Forest & Rural Resources

In order to reduce conflicts between residential development and the activities of a working rural landscape, the subdivider shall incorporate the following minimum provisions into the subdivision plan:

a. No more than 10% of prime farmland soils may be developed for roads, housing or other non-agricultural purposes.
b. A vegetative buffer should be maintained or installed along property lines abutting any productive farmland, prime farmland or timberland.
c. A disclosure notice, included in the deed for each lot where appropriate to inform the new landowner that agricultural, forestry or mining activities may generate noise, dust and odors.

Q. Rural Design and Landscape

Each subdivision proposal consisting of 5 or more lots or dwelling units shall include a landscape plan which shows how the lots, building sites, structures and roads preserve the existing rural character of the community. The plan shall incorporate the following standards into the overall development of the subdivision:

a. Building sites shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas.
b. Road and lot layout shall be adapted to the existing topography.
c. Existing trails used by the public shall be preserved insofar as possible.
d. Existing vegetation, rail fences and stone walls along front, rear and side lot lines shall be preserved insofar as possible.
e. Lots shall be designed so as to enhance the privacy and rural atmosphere of the development.
f. Trees along the roads shall be preserved to the greatest extent possible in order to maintain a rural landscape corridor.
g. Existing vegetation within 75 feet of all ponds, streams and wetlands shall be preserved to the greatest extent possible.

SECTION VII OPEN SPACE DESIGN OPTION

A. Purpose

The purpose of these provisions is to allow for new concepts of housing development where variations of design may be allowed, provided that the net residential density shall be no greater than is permitted for a standard subdivision. Notwithstanding other provisions of this Ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential developments in Town, may modify said provisions related to dimensional requirements to permit innovative approaches to housing and environmental design in accordance with the basic design requirements of Subsection C.

B. Application Procedure:

1. The Board may allow subdivided development on reduced size lots in return for open space where the Board determines that the benefits of the Open Space Design will prevent the loss of significant natural features without increasing the net density of the development. The developer interested in this design option shall submit a written application to the Board for an Open space Design. Two Sketch Plans shall be submitted with one layout as a standard subdivision and the second as an Open Space Design, indicating proposed common open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and dimensional standards of this Ordinance and have an area suitable for subsurface wastewater disposal.
2. A written statement accompanying the Sketch Plans shall describe the natural features which will be preserved or enhanced by the Open Space Design approach. Natural features include, but are not limited to: significant wildlife and waterfowl habitats, moderate to high yield aquifers and productive or prime farmland, plus any other important natural and historic areas identified in the Town's Comprehensive Plan. The statement shall also compare the impacts upon the Town from each plan. Examples of impacts are: municipal cost for roads, school bussing, solid waste, utilities, recreational opportunities, preservation of conservation lands and environmental impacts.
3. Within 30 days of receiving the two Sketch Plans and written statement, the Board shall determine whether to allow the subdivision to be developed in accordance with the Open Space Design Option based upon findings that:
   a. The site contains natural features that are worthy of preservation, and those features could not adequately be preserved in a standard subdivision layout, or
   b. An Open Space Design will permit more efficient creation and utilization of infrastructure and provision of municipal services than would a standard subdivision layout.
4. The application and review procedures for Preliminary and Final Plans are the same as for a standard subdivision.

C. Basic Design Requirements:

1. The Open Space Design development shall meet all the Review Criteria requirements of this Ordinance (Section III) and other applicable town ordinances.
2. Each building shall be an element of an overall plan for the site development. Only developments having a total site plan for structures will be considered. The developer shall illustrate the placement of buildings and the treatment of spaces, roads, services and parking and in so doing shall take into consideration all requirements of this section and of other applicable sections of this Ordinance.

3. The net residential acreage shall be calculated by taking the total area of the property and subtracting in order, the following:
   a. 15% of the area of the property to account for roads, driveways and parking.
   b. Portions of the property which, because of existing land uses or lack of access, are isolated and unavailable for building purposes
   c. Portions with a flood-prone area as defined in the town's Flood Insurance Rate Maps and Floodplain Management Ordinance.
   d. Portions of the property which are unsuitable for development in their natural state due to topographical, drainage or soil conditions such as, but not limited to:
      1) slopes greater than 25%
      2) wetlands
      3) 90% of all prime farmland soils
   e. Portions of the property subject to rights-of-way.
   f. Portions of the property located in a Resource Protection District of a Shoreland Zone.
   g. Portions of the property covered by surface waters.
   h. Portions of the property utilized by stormwater management facilities.
4. In order to determine the maximum number of dwelling units permitted on the property, the net residential acreage shall be divided by the standard minimum lot size required (2 acres, or 87,120 sq. ft.)
5. Unless public sewer is available, no lot shall be smaller than 20,000 square feet.
6. The total area of common open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below minimum lot area requirements.
7. Every building lot reduced in area below the amount required should be within 1,000 feet of common open space.
8. No individual lot or dwelling unit which has been reduced in size below the 2-acre minimum shall have direct vehicular access onto a public road existing at the time of the development.
9. Shore frontage shall not be reduced below the minimum required in any applicable Shoreland Zoning District.
10. Where the development abuts a great pond or perennial stream, a usable portion of the shoreline and reasonable access to it, shall be part of the common open space.
11. Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography and natural drainage areas, in accordance with an overall plan for the site development.
12. The location of subsurface wastewater disposal systems and an equivalent reserve area for replacement systems shall be shown on the plan. The reserve area shall be restricted so as not to be built upon.
13. Utilities shall be installed underground whenever feasible.

D Dedication and Maintenance of Common Open spaces and Facilities:

1. Common open space shall be dedicated upon approval of the project. There shall be no further subdivision of this land, which shall be used only for agriculture, conservation or non-commercial recreation. However, easements for public utilities or similar structures may be permitted.
2. The common open space shall be shown on the development plan with the notation on the face thereof to indicate that:
   a. The common open space 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 town.
3. If any or all of the common open space is to be reserved for use by the subdivision residents, the by-laws of the homeowners' association shall specify maintenance responsibilities and shall be submitted to the Board prior to approval by the residents.
4. Covenants for mandatory membership in the homeowners' association, setting forth the owner's rights and interest and privileges in the association and the common land, shall be reviewed by the Board and included in the deed for each lot in the subdivision.
5. The homeowners' association shall have the responsibility of maintaining the common open space and other common facilities unless accepted by the town.
6. The association shall levy annual charges against all property owners to defray the expenses connected with the maintenance of open space, other common and recreational facilities and town assessments.

SECTION VIII ENFORCEMENT

A. Enforcement Procedure:
   1. The Code Enforcement Officer shall enforce the provisions of this Ordinance. If the CEO finds that any provision is being violated, he/she shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering action necessary to correct it. A copy of such notice shall be submitted to both the Selectmen and the Board.
   2. The Code Enforcement Officer shall keep a written record of all complaints, inspections, notices, violations and all other materials related to the enforcement of this Ordinance. Copies shall be provided to the Selectmen and the Board for permanent filing in the town office.

B. Legal Actions and Penalties
   1. When the Code Enforcement Officer's actions do not result in the correction of any violation of this Ordinance, he/she may request that the Selectmen institute appropriate legal steps to enforce the provisions of this Ordinance.
   2. The Selectmen may enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance without Court action.

3. Any person, including a landowner, a landowner's agent or a contractor, who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A. Section 4452. (See Appendix C)
4. In the event that the Board discovers after the fact that an approved subdivision is illegal due to some action by the applicant either during the review process or subsequent to Final Plan approval, then the Board shall notify all interested parties in writing regarding the illegal status of the subdivision. The Code Enforcement Officer shall act as the Board's agent in all enforcement actions requiring the certification of Title 30-A, M.R.S.A. Section 4451.

APPENDICES

A. Definition of Subdivision (Title 30-A, M.R.S.A. Section 4401)

B. Diagram of "L"-shaped turn-around

C. Title 30, M.R.S.A. Section 4452

Troy Subdivision Ordinance
Appendix A

Definition of Subdivision
Title 30-A, M.R.S.A. Section 4401

4. Subdivision. "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. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:
   (1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use a s a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division: or
   (2) The division of the tract or parcel is otherwise exempt under this subchapter.

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

C. A lot of 40 or more acres must be counted as a lot, except:
   (1) Repealed
   (2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D. Repealed

D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-4 A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

D-6.A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. Repealed.

H-1.This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:

(1) expands the definition of subdivision to include the division of a structure for commercial or industrial use; or

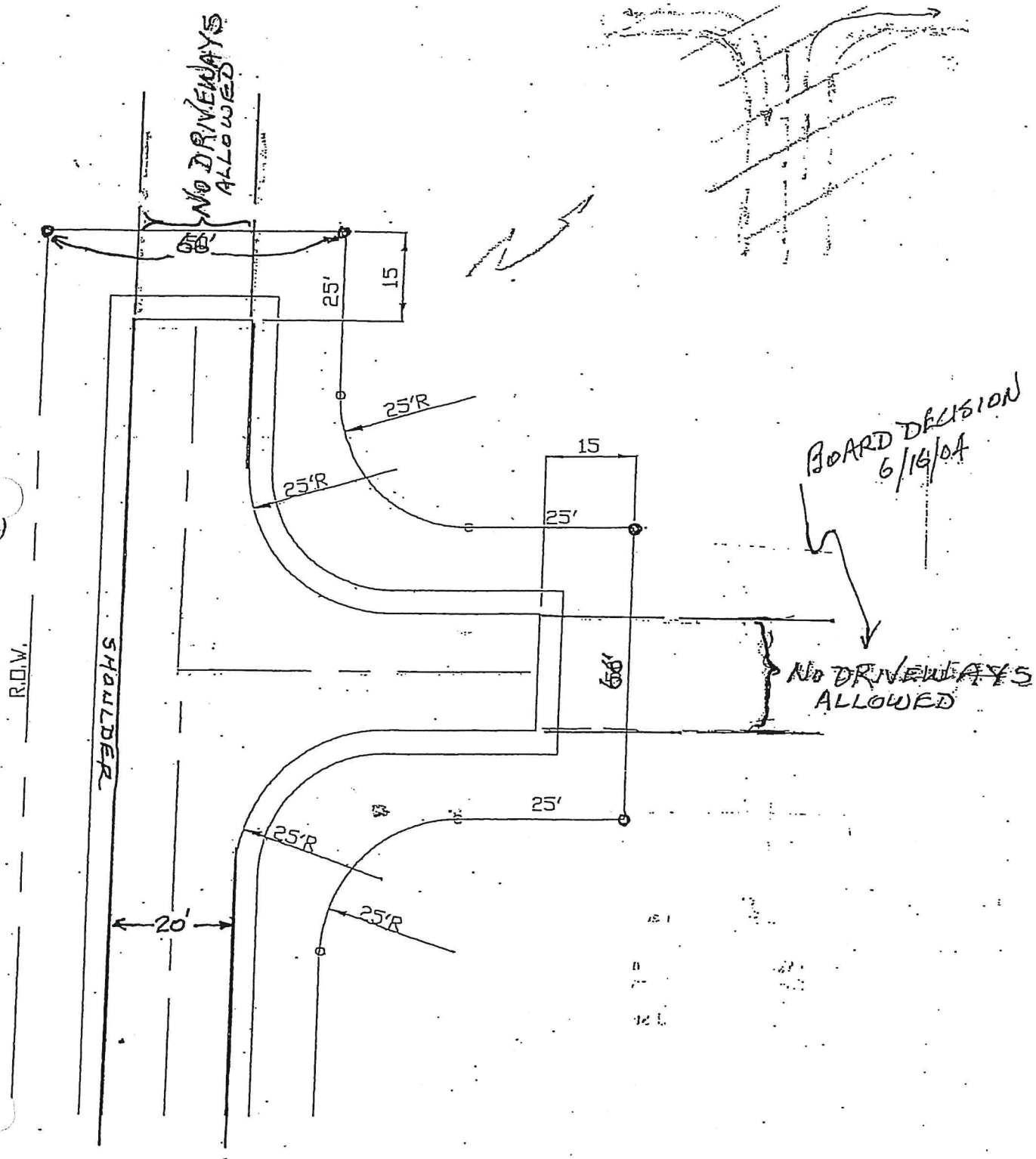
(2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of subdivision except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its

conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

l. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

TYPICAL "L" SHAPED TURN-AROUND



Troy Subdivision Ordinance
Appendix C

Title 30 M.R.S.A. Section 4452

Any person, including a landowner, a landowner's agent or a contractor who orders or conducts any activity in violation of this Ordinance shall be penalized in accordance with Title 30-A M.R.S.A. Section 4452. The minimum penalty for a specific violation is $100; and the maximum penalty shall be, in most cases, $2500.