Subdivision Ordinance

Town of Tremont

ARTICLE I, Authority, Administration and Administrative Procedures

A. Authority

(1) This Ordinance shall be known and may be cited as "Subdivision Ordinance of the Town of Tremont."

(2) The standards in this Ordinance have been prepared in accordance with the provisions of Title 30-A MRSA, Sections 4401-4407.

B. Administration

(1) The Planning Board of the Town of Tremont, hereinafter called the Board, shall administer this Ordinance. No building or plumbing permit shall be issued by the Town officers or Code Enforcement Officer for any use or development within the scope of this Ordinance until an application required by this Ordinance has been reviewed and approved by the Board and any conditions attached to the approval fulfilled.

(2) The provisions of this Ordinance shall pertain to all land within the boundaries of the Town of Tremont proposed for subdivision defined as follows:

(a) 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, l971.

(b) This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise.

(c) The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land, each into 3 or more dwelling units, or separate commercial or industrial uses within a 5-year period, the construction or placement of 3 or more dwelling units, or separate commercial or industrial uses on a single tract or parcel of land exclusive of primitive camping facilities; and the division of an existing structure or structures previously used for commercial or industrial use, each into 3 or more dwelling units, or separate commercial or industrial uses within a 5-year period.

(d) 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, unless otherwise exempted herein, 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 as a single family residence or for open space land as defined in Title 36, Section 1102, for a period of at least 5 years before the 2nd dividing occurs; or

[2] the division of the tract or parcel is otherwise exempt under this subchapter.

(e) 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 Town reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

(f) A lot of 40 or more acres shall not be counted as a lot, except when the lot or parcel from which it was divided is located entirely or partially within 250 feet of the upper edge of the shore of a water body.

(g) 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 section. 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 that exempt division creates a lot or lots for the purposes of this subsection.

(h) 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.

(i) 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.

C. Administrative Procedure

(1)Administrative Procedure

The Town shall conduct the following review procedure of each application for a Subdivision:

(a) Pre-application Workshop (Minor & Major Subdivisions)
(b) Preliminary Plan for Subdivision Approval (Major Subdivisions only)
(c) Final Plan for Subdivision Approval (Minor & Major Subdivisions)
public health, safety, and welfare, that a Minor Subdivision comply with all of the review procedures above.

(2) In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least 2 weeks in advance of a regularly scheduled meeting by contacting the Town.

(Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes. No decisions may be taken; nor shall that meeting count as one of the required hearings.)

(3) Applications for approval shall be submitted in writing to the board, on forms provided by it. For projects that are subject to the Maine Site Location of Development Law, the board will accept the application filed by the applicant for the State Site Location Permit, in lieu of the form provided by the Board. The Board may require the submission of whatever additional information is necessary to determine compliance with the provisions of this ordinance.

(4) Applications for approval under this Ordinance must include evidence that all appropriate local, State and Federal agencies have been requested to determine if additional permits must be sought from them. Final approval may be given conditionally upon receipt of these permits if they are required.

(5) On all matters concerning subdivision review, the Board shall maintain a permanent record of all its meetings, proceedings and correspondence.

(6) Joint meetings between town planning boards are required if any portion of a subdivision crosses town boundaries.

(7) Any costs incurred by the Town in its effort to interpret information submitted for the approval of a subdivision, including requests for legal opinions pertaining to the application, shall be borne by the applicant.

D. Amendments

(1) This Ordinance may be amended by the legislative body of the Town of Tremont.

(2) A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

ARTICLE II, Purposes

A. The purposes of this Ordinance are:

(1) to insure the comfort, convenience, safety, health and welfare of the people of the Town of Tremont;

(2) to protect the environment; and

(3) to promote the development of an economically sound and stable community.

B. To this end, in approving subdivisions, the Planning Board shall consider the following criteria before granting approval:

(1) POLLUTION: 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

(d) the applicable health and water resource rules and regulations.

(2) SUFFICIENT WATER: 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 used;

(4) EROSION: will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;

(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 urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;

(6) SEWAGE DISPOSAL: will provide adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

(7) MUNICIPAL SOLID WASTE DISPOSAL: will not cause an unreasonable burden on the Town's ability to dispose of waste, if municipal services are to be utilized;

(8) AESTHETIC, CULTURAL AND NATURAL VALUES: will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat as identified by the Department of Inland Fisheries and wildlife or the Town, or rare and irreplaceable natural areas or any public rights for physical access to the shoreline;

(9) CONFORMITY WITH LOCAL ORDINANCES AND PLANS: is in conformance with the Tremont Land Use Ordinance and the Tremont Comprehensive Plan.

(10) FINANCIAL AND TECHNICAL CAPACITY: the subdivider must have adequate financial and technical capacity to meet the above criteria.

(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 I, article 2-B, 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 conjunction with existing activities, adversely affect the quality or quantity of ground water;

(13) FLOOD AREAS: Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of the Floodplain Management Ordinance of the Town of Tremont;

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

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

(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) LAKE PHOSPHORUS CONCENTRATION. 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;

(19) 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; and

(20) 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. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to ranting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

ARTICLE III, Pre-application Workshop

Definition: Before making a formal application for approval of a plan, the applicant shall submit to the Planning Board a sketch plan of the subdivision and the surrounding land for informal review.

A. Procedure:

(1) Applicant presentation of sketch plan and informational workshop between the applicant and the Planning Board.

(2) Scheduling of on-site inspection.

(3) Determination of required contour level by Planning Board.

B. Submission:

The pre-application sketch plan, which may be a free-hand penciled sketch, shall show the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan should be:

(1) Supplemented with general information to describe or outline the existing conditions of the site and the proposed development**;**

(2) Superimposed on, or accompanied by, a copy of the Assessor's Map(s) on which the land is located**;**

(3) Accompanied by a copy of a portion of the USGS topographic map of the area showing the outline of the proposed subdivision. Two of the USGS Maps (the Swans's Island Quadrangle and the Bass Harbor Quadrangle) have a contour interval of 10', the Southwest Harbor Quadrangle has an interval of 20' and the Bartlett's Island Quadrangle (the majority of the Town), has a contour interval of 6 meters, or 19-l/2'; and

(4) Accompanied by any proposed road names and a lot numbering system, in accordance with the provisions of the E-911 Ordinance.

C. On-Site Inspection and Contour Interval: Within 30 days of the Pre-application Workshop, at least two members of the Board shall hold an on-site inspection of the

property. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall then determine and inform the applicant in writing if they require a more precise contour interval than on the USGS maps for the formal application.

D. Rights not Vested: The workshop of the pre-application sketch plan and the on-site inspection shall not cause the plan to be a pending application under the protection of Title 1 MRSA, Section 302. This will occur at the time of the acceptance of the completed application.

ARTICLE IV, Preliminary Plan for Subdivision Approval

A. Procedure:

(1) Within six months of the Pre-application Workshop, the subdivider shall submit an application for approval with a Preliminary Plan approximating the layout shown on the sketch plan (plus any recommendations made by the Board).

(2) All subdivision fees shall be set by the Selectboard from time to time as appropriate. The Planning Board reserves the right to obtain an independent evaluation of the impacts of a proposed development, to assist it in making necessary findings of fact. If the Planning Board deems such study necessary, it will request a reasonable additional sum from the applicant to defray the cost of such study or studies. Any funds not utilized for consultant studies will be returned to the developer.

(3) Upon receiving the application, the Town shall issue a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision and the clerk and the Planning Board of towns that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and a general description of the project.

(4) Within 30 days from the dated receipt, the Planning Board shall hold a meeting to determine if the application is complete. The Town shall notify the subdivider either that the application is a complete application or, if the application is incomplete, the specific additional material needed to make a complete application.

(5) After the Planning Board has determined that a complete application has been filed, it shall have 30 days within which to call a public hearing. The Town shall notify the subdivider of the date, time and place of the public hearing, cause this information to be published in a newspaper of general circulation in the Town, at least 2 times, the date of the first publication to be at least 7 days

prior to the hearing, and similarly notify the abutters to the subdivision by mail.

(6) The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the application.

(7) The Board shall, within 30 days of the completion of the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the application based on the Preliminary Plan. The Board shall specify in writing its findings of fact and reasons for any conditions or denial.

(8) When approval to a Preliminary Plan is granted, the Board must state the conditions of such approval, if any, with respect to:

(a) The specific changes which it will require in the Final Plan;

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

(c) The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan (see ARTICLE 10).

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

B. Submission

(1) LOCATION MAP. The preliminary plan shall be accompanied by a location map adequate to show the relationship of the proposed subdivision to the adjacent properties. This location map shall show:

(a) any existing subdivisions in the proximity of the proposed subdivision;

(b) locations and names of any existing and proposed streets;

(c) any boundaries of zoning districts with designations; and

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

(2) OTHER REQUIRED PERMITS. The Preliminary Plan application shall contain an advisory opinion from the appropriate federal, state and local agencies as to the application of their rules to this subdivision application.

(3) PRELIMINARY PLAN. The Preliminary Plan shall be submitted in two copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than 100' to the inch. The Board may request such scale as it deems appropriate to the application. In addition, eight copies of the Plan(s) reduced to a size of 8-l/2" x ll" or ll" x l7" shall be submitted to the Board.

The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:

(a) proposed name of the subdivision, or identifying title; the name of the town; and the assessor's Map and Lot numbers;

(b) evidence of right, title, or interest in the property;

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

(d) the date the plan was prepared, north arrow, graphic map scale, names and addresses of the owner(s) of record, subdivider, and individual or company who prepared the plan, and names of adjoining property owners;

(e) the number of acres within the proposed subdivision, location of vegetative cover type together with any existing buildings, water courses and other essential existing physical features;

(f) the proposed lot lines with approximate dimensions and lot areas;

(g) proposed names of any roads, and the numbers assigned to lots in the subdivision, in accordance with the provisions of the E-911 Ordinance;

(h) the location, names and present widths of any existing and/or proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision;

(i) the width and location of any streets or public improvements shown upon the official map and the Comprehensive Plan, if any, within the subdivision;

(j) any parcel of land proposed to be dedicated to public use and the conditions of such dedication;

(k) the location of any open space to be preserved and a description of proposed improvements and its management;

(l) the names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision;

(m) the location of any Zoning boundaries affecting the subdivision;

(n) the boundaries of any flood hazard areas and the 100-year flood elevation delineated on the plan, if any portion of the subdivision is in a flood-prone area;

(o) contour lines at 10 foot intervals, showing elevations in relation to Mean Sea Level

(p) subsurface sewage disposal systems:

[1] test pit analyses, prepared by a licensed site evaluator shall be provided for each proposed lot in the subdivision. A map showing the location of all test pits dug on the site shall be submitted.

[2] centralized or shared subsurface sewage disposal system: approval of the scheme by Maine Department of Human Services. A map showing the location(s) of the system shall be submitted. The Planning Board may request a site inspection by the Department of Human Services.

(q) evidence of adequate ground water supply and quality may be requested by the Board and shall be submitted by a well driller or a hydro-geologist familiar with the area (if the proposed subdivision is within the watershed of a lake, the phosphate concentration impact on the ground water must be determined);

(r) a copy of the most recently recorded deed for the parcel. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property;

(s) a copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision;

(t) a copy of that portion of the State soil survey covering the subdivision. (When the survey shows soils which are generally unsuitable for the uses proposed, the

Board may require the submittal of a report by a registered soil scientist indicating the suitability of soil conditions for those uses);

(u) an adequate storm water management plan must be provided;

(v) the location and size of existing and proposed subsurface sewage systems, wells, culverts and drainage ways on or adjacent to the property to be subdivided;

(w) a determination must be made whenever a subdivision is situated, in whole or in part, within 250' of any wetland, great pond or river, or within their watershed, that the proposed subdivision will not adversely affect the quality or unreasonably affect the shoreline of that body of water;

(x) a map identifying all freshwater wetlands regardless of size, streams, and/or brooks within or abutting the proposed subdivision;

(y) an estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours;

(z) a statement of adequate financial capacity demonstrating the financial ability of the subdivider to complete the project.

(For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a registered professional engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets. Trip generation rates used shall be the mean value reported in Table 3 of "Development and Application of Trip Generation Rates," Kellerco, Inc., published by the Federal Highway Administration, January, l985); and

(4) SPECIAL REQUIREMENT FOR THE WATERSHED OVERLAY. The Watershed Overlay consists of all those areas lying within the watersheds of Hodgdon Pond and Seal Cove Pond. The boundaries of the watersheds shall be presumed to be those shown on the Water and Marine Resources Map of the Tremont Comprehensive Plan. A participant in a subdivision permit proceeding wishing to show that the location of the proposed activity is, or is not, in fact within one of the watersheds may rebut the presumption of the accuracy of the watershed map only by the production of clear and convincing evidence, including expert testimony, that the location is, or is not, in fact within the relevant watershed.

The following standards shall apply in the Watershed Overlay:

(a) Before applying for a subdivision permit any part of which is in the Watershed Overlay, the applicant shall read the brochure about preventing phosphorus and similar contaminant loading in Hodgdon Pond and Seal Cove Pond entitled Protecting Seal Cove Pond and Hodgdon Pond. The applicant shall attach to the application a statement certifying that the applicant has read the brochure.

(b) The applicant shall include with the application a written plan for the control of phosphorus and similar contaminant loading on the lot. At a minimum, the plan shall include the following:

[1] For all roads and driveways in the watershed overlay, the plan shall show the layout of each driveway and road with an explanation of how each driveway and road is designed to prevent phosphorus and similar contaminant loading in the pond.

[2] If the proposed project includes paved or other impervious areas, including roofs, the plan shall show all such areas and explain how the proposed project is designed to prevent phosphorus and similar contaminant loading in the pond from such areas.

[3] If the proposed project includes a lawn or other area, such as a field, to be mowed, the plan shall show the layout of the lawn or area to be mowed with an explanation of how the area is designed to prevent phosphorus and similar contaminant loading in the pond.

[4] The plan shall show the natural vegetative buffers and other techniques that the applicant intends to use in the subdivision to prevent phosphorus and similar contaminant loading into the pond.

[5] The applicant will include in the plan a statement of the deed restrictions that will be placed on the deeds to all lots in the watershed overlay to enforce the requirements of the phosphorus and similar contaminant loading plan for that subdivision.

[6] The Planning Board may require the plan to include such further information, including expert studies that reasonably relates to the project s potential for phosphorus and similar contaminant loading in the pond of that watershed.

(c) No subdivision permit shall be granted in the Watershed Overlay unless Planning Board finds that the proposed subdivision shall not contribute to phosphorus and similar contaminant loading in the pond of the respective watershed. It shall not be sufficient for an applicant to promise not to use fertilizers on lawns, fields and other areas to be mowed; rather, it shall be conclusively presumed that fertilizers will eventually be used in such areas and

the plan must include sufficient vegetative buffers or other techniques to assure that the fertilizers do not contribute to phosphorus and similar contaminant loading in the pond. The written plan for the control of phosphorus and similar contaminant loading as finally approved by the Planning Board shall automatically constitute conditions on the subdivision permit, which must be referenced in the final plan that is to be recorded in the Registry of Deeds, binding upon the applicant and the applicant s successors. The Planning Board may place whatever further conditions on the permit that are necessary to assure that the subdivision does not contribute to phosphorus and similar contaminant loading on either pond.

ARTICLE V, Final Plan for Subdivision Approval

A. Procedure.

(1) Within six months after the approval of the completed application submitted with the Preliminary Plan, the subdivider shall file with the Town the application for approval with the Final Plan of the project. This Final Plan shall approximate the layout shown on the Preliminary Plan plus any recommendations made by the Board.

(2) An additional processing fee shall be required to cover the costs of advertising and postal notification for the public hearing.

(3) Upon receiving the application with the Final Plan, the Town shall issue a dated receipt to the applicant.

(4) Within 30 days from the dated receipt, the Planning Board shall hold a meeting to determine if the submission requirements for Final Plan have been met, and if not, what specific information is still needed. The Town shall notify the subdivider in writing either that the application with the Final Plan as submitted has met the requirements or if not, the specific materials needed to do so.

(5) Within 30 days of a determination that Final Plan submission requirements have been met, the Town shall notify the subdivider of the date, time and place of the public hearing and cause this information to be published twice in a newspaper of general circulation in the Town, the date of the publication to be at least 7 days prior to the hearing, and similarly notify the abutters to the subdivision by mail. When a subdivision is located within 100 feet of a town boundary, the Board shall notify the clerk and the Planning Board of the adjacent town involved, at least l0 days prior to the hearing.

(6) The Applicant shall notify the school officials and fire chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Applicant shall request that these officials comment upon

the adequacy of their department's existing capital facilities to service the proposed subdivision.

(7) The Subdivider, or his duly appointed representative, shall attend the meeting of the Board to discuss the application.

(8) Before the Board grants approval of the application with the final plan, the subdivider shall meet the performance guarantee requirements contained in Article 10.

(9) The Board, within 30 days from the completion of the public hearing, shall make findings of fact and conclusions relative to the standards contained in Title 30-A MRSA, Sections 4401 - 4407, to any other regulations as adopted by the reviewing authority, and to the purposes as stated in Article 2.A. of this Ordinance. If the Board finds that all standards of the statute and this Ordinance have been met, the Board shall approve the application with the Final Plan. If the Board finds that any of the standards of the statute or this Ordinance have not been met, the Board shall either issue an order to deny the application or to approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

B. Submission.

(1) LOCATION MAP. As required under Preliminary Plan application.

(2) OTHER REQUIRED PERMITS. The submission shall include a listing of any local, state and federal permits which have been determined to be applicable to the subdivision and a notification stating the current status of the application.

(3) FINAL PLAN. The application with the Final Plan submitted for approval shall include all of the information required under Preliminary Plan approval plus any recommendations made by the Board at that time and the following additional information:

(a) The plan shall contain sufficient data to allow the location, bearing and length of any street line, lot line and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for any street shall be included.

(b) The plan shall show lines or dots in the center of proposed roads every fifty (50) feet, for E-911 purposes, to aid in the assignment of numbers to structures subsequently constructed.

(c) A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the Tremont Zoning Ordinance. The Board may require that this plan be prepared by a qualified engineer.

(4) The plans shall be to the following stated scales and sizes:

(a) One reproducible, stable-based transparent original of each sheet (to be recorded at the Registry of Deeds) and 4 paper copies at a scale of not more than 100'=1". (The Board reserves the right to request such scale as it deems appropriate.)

(b) The plans shall be no larger than 24"x36" in size and have a margin of 2" outside the border lines on the left side for bending and 1" along the remaining three sides. Space shall be provided for endorsement by the Board.

(c) The plan must bear the seal of a professional land surveyor or other authorized design professional. If the plan is prepared by or under the responsible charge of a professional land surveyor, the plan shall include the signature as well as the seal of that surveyor. Note: The Registry of Deeds is unable to accept a plan for recording unless it is embossed with the seal of an architect, professional engineer or registered land surveyor.

(d) Eight copies of all information and eight reduced copies of all plans shall be submitted (8-1/2"x11" or 11"x17").

C. Approval of the application with the Final Plan and filing:

(1) No plan shall be approved by the Board as long as the subdivider is in violation of the provisions on a previously approved plan.

(2) Upon findings of fact and determination as stated in the above paragraph A.9. and upon voting to approve the subdivision, the Board shall sign the final plans and specify any conditions for approval in writing on the plan. The Board shall specify in writing its findings of fact and reasons for any conditions of approval, or a denial. One paper copy of the signed plan shall be retained by the Board as part of its permanent records, one shall be forwarded to the Tax Assessor and two shall be forwarded to the applicant (one plus the transparent original to be recorded in the Registry).

(3) Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.

(4) The approval by the Board of a subdivision shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement or other open space shown on such plan. When a park, playground or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the plan shall not constitute an acceptance by the Town of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a

written agreement between the applicant and the Town Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment and maintenance of any such dedicated area.

(5) Failure to commence substantial construction of the subdivision within 5 years of the date of approval and signing of the final plan, or for subdivisions not including significant construction, failure to sell at least one of the lots or units to a third party within 5 years of the date of approval, shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE VI, Revisions to Approved Subdivision Applications and Plans

A. Procedure.

(1) An applicant for a revision to a previously approved subdivision application shall, at least 14 days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. The procedures for Preliminary Plan approval shall be followed.

B. Submission.

The applicant shall submit a copy of the approved plan, as well as two copies of the proposed revisions to the Town. Eight (8) copies of the proposed revisions reduced to a size of 8-1/2"x11" or 11"x17" shall be submitted to the Board. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this Ordinance.

C. Scope of Review.

The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed. The Board's decision must be accompanied by findings of fact based on the review criteria.

D. Recording.

A subdivision plan presented for recording to the Registry of Deeds which is a revision or an amendment to an existing plan shall cause the Registry to:

(1) indicate on the index for the original plan that it has been superseded by another plan and reference the book and page on which the new plan is recorded;

(2) ensure that the book and page on which the original plan is recorded is referenced on the new plan.

ARTICLE VII, Enforcement

A. Inspection of Required Improvements.

(1) If a waiver is granted and considered a condition of the final subdivision approval, it must be recorded at the Registry of Deeds and attached to the deed within 90 days of its granting.

(2) Any person who develops a subdivision in a manner other than as depicted on the final approved subdivision plan shall be subject to penalties and fines in accordance with Article VII.B. of this Ordinance.

(3) At least five days prior to commencing each major phase of construction of required improvements (see Article VIII.A.), the subdivider or builder shall notify the Code Enforcement Officer (CEO) in writing of the time when he proposes to commence construction of such improvements, so that all Town specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

(4) If the CEO finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Town Officers, Planning Board, and the subdivider or builder. The Town Officers shall take any steps necessary to preserve the Town's rights.

(5) If at any time before or during the construction of the required improvements, it appears to be necessary or desireable to modify the required improvements, revised plans shall be filed with the Town, and the subdivider shall obtain permission to modify the plans from the Board.

(6) By December lst of each year during which construction was done on the site, the Town shall have the site inspected by the CEO. The CEO shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered. If the Board so determines that the services of a professional registered engineer are required to assess the stated problems, the expense shall be borne by the subdivider. Failure of the CEO to inspect the site or file a report as required by this paragraph shall not relieve the applicant of any of its responsibilities under this ordinance or constitute a waiver by the Town of any violations at the site.

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

(8) Prior to the sale of any lot, the subdivider shall install all monumentation for that lot as shown on the plan.

B. Violations and Enforcement.

(1) No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this Ordinance.

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

(3) Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than $l00, and not more than $2500 for each such conveyance, offering or agreement. The Town may institute proceedings to enjoin the violation of this section, and may collect attorneys' fees and court costs if it is the prevailing party.

(4) No utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.

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

ARTICLE VIII, General Standards

In reviewing applications for a subdivision, the Board shall consider the following general standards prior to the approval of the final plan. In all instances the burden of proof shall be upon the applicant and the Board reserves the right to require additional information at any stage.

A. Required Improvements.

The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

(1) Water Supply.

(a) If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (l0-l44 A.C.M.R. 23l: Maine Department of Human Services, Water Division as amended from time to time).

(b) The subdivider shall be required to construct ponds and dry hydrants whenever necessary to provide adequate water storage for fire-fighting purposes. An easement shall be granted to the Town granting access to and maintenance of the dry hydrants where necessary. The Board may waive the requirement for fire ponds upon submittal of evidence that the soil types in the subdivision will not permit their construction.

(2) Surface Drainage.

The storm water management plan submitted in accordance with Article IX.3. shall be installed.

(3) Sewage Disposal.

The developer 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. The test log shall include: lot number, test pit number, soil profile/condition (from Table 6-1 of the Plumbing Code), depth of pit, depth to seasonal high groundwater table, depth to restrictive layer, and depth to bedrock. 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.

(4) Monuments.

Permanent monuments shall be set at or within 50' of all lot corners and street intersections on the interior or exterior boundaries of the subdivision. Additional monuments shall be set such that no interior, exterior or highway boundary segment exceeds 750' between monuments. The final plan shall indicate the location and character of all monuments.

Monuments shall be iron pins or pipes of not less than 3/4" diameter and may have "surveyor's caps", stone blocks with metal plates, or Federal Government specification monuments.

B. Impact on Ground Water.

When a hydro geologic assessment is submitted, the assessment shall contain at least the following information:

(1) a map showing the basic soils types;

(2) projections of the subdivision's impact on ground water phosphate concentrations shall also be provided for subdivisions within the watershed of a lake; and

(3) a map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

C. Land Features.

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

(2) Except for normal thinning, landscaping and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.

(3) To prevent soil erosion in shoreline areas, a buffer strip of vegetation shall be preserved within a strip of land extending 100' from the shore of a great pond and 75' inland from the normal high water line of any other water body or upland edge of a wetland. The standards are specified in the Tremont Land Use Ordinance.

D. Access Control and Traffic Impacts.

(1) General. Provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to safeguard against hazards to traffic and pedestrians in existing roads and within the subdivision, to avoid traffic congestion on any road and to provide safe and convenient circulation on public roads and within the subdivision.

(a) The vehicular access to the subdivision shall be arranged to avoid traffic use of existing local residential roads where possible.

(b) Where a lot has frontage on two or more roads, the access to the lot shall be provided to the lot across the frontage and to the road where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.

(c) The road giving access to the subdivision and neighboring roads which can be expected to carry traffic to and from the subdivision shall have traffic carrying capacity or be suitably improved by the subdivider to accommodate the amount and types of traffic generated by the proposed subdivision.

(2) Subdivision access design for subdivisions entering onto arterial roads. When the access to a subdivision is a road, the road design and construction standards of Article IX. shall be met. Where there is a conflict between the standards in this section and the standards of Article IX., the stricter or more stringent shall apply.

(a) General. Access design shall be based on the estimated volume using the access classification defined below.

[1] Low volume access: less than 25 vehicle trips per day.

[2] Medium volume access: between low and high

[3] High volume access: peak hour volume of 400 vehicles or greater.

b. Sight distances. Accesses shall be designed in profile and grading and located to provide the required sight distance measured in each direction.

(Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of l0' behind the curb line or edge of shoulder, with the height of the eye 3-l/2', to the top of an object 4-l/2' above the pavement.)

The required sight distances are listed below for various posted speed limits.

[1] Two lane roads. A sight distance of 10' for each mile/ hour of posted speed limit shall be maintained or provided.

[2]. Vertical alignment. Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Low volume accesses shall slope upward or downward from the gutter line on a straight slope of 2% or less for at least 25' followed by a slope of no greater than l0% for the next 50'. The maximum grade over the entire length shall not exceed 10%. Medium and high volume accesses should slope upward or downward from the gutter line on a straight slope of 2% or less for at least 25'. Following this landing area, the steepest grade on the access shall not exceed 8%.

(c) Construction materials/paving.

[1] All accesses entering a curbed road shall be curbed with materials matching the road curbing. Sloped curbing is required around all raised channelization islands or medians.

[2] All accesses shall be paved with bituminous concrete pavement within the road right-of-way. All commercial accesses regardless of access volume shall be paved with bituminous concrete pavement within 30' of the road right-of-way.

E. Retention of Open Spaces and Natural or Historic Features.

(1) The Board shall in subdivisions of 30 acres or more and may in all other subdivisions require the reservation of up to ten percent of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider: the proximity of the subdivision to neighboring open space or recreation facilities; the needs identified in the Town Comprehensive Plan for open space or recreation facilities in the areas surrounding the subdivision; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.

(2) The Board may require that the development plans include a landscape plan that will show the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.

(3) If the proposed subdivision contains any identified historical or archeological sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be suitably protected by appropriate covenants and management plans.

(4) Any public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space, with provisions made for continued public access.

F. Construction in Flood Hazard Areas.

Any proposed subdivision plan must include a condition of approval requiring that structures on any lot in the development having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article VI of the Floodplain Management Ordinance of the Town of Tremont. Such requirement will be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The

condition shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

ARTICLE IX, Road and Storm design and Construction Standards

A. General Requirements.

(1) The Board shall not approve any subdivision plan which has a road or roads which are intended for Town acceptance unless the proposed roads and the storm water management systems are designed in accordance with the Road Ordinance of the Town of Tremont. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.

(2) A Subdivision Plan shall show any proposed road names and lot numbers, in accordance with the provisions of Tremont's E-911 Ordinance. Approval by the Planning Board, after consultation with the Road Commissioner, shall constitute the assignment of road names and numbers to the lots in the subdivision.

(3) Subdividers shall submit to the Board, as part of the final plan, detailed construction drawings as specified in the Road Ordinance for roads which are proposed to be accepted by the Town. They shall submit construction information for roads in the subdivision which are to remain private roads based on the standards in Article IX. B.

(4) Where the subdivider proposes improvements within existing Town ways, the proposed design and construction details shall be approved in writing by the Town's Road Commissioner or the Maine Department of Transportation, as appropriate.

(5) Upon receipt of plans for a proposed Town way, the Board shall forward one copy to the Town Manager/Road Commissioner for review and comment. Plans for roads which are not proposed to be accepted by the Town shall be sent to the Planning Board for review and comment.

(6) Where the subdivision roads are to remain private roads, the following words shall appear on the recorded plan:

"All roads (rights of way) in this subdivision shall remain private roads (rights of way), to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."

B. Private Road (or Right of Way) Standards.

(1) Design Standards:

Description	Requirements
Minimum right-of-way	30'
Minimum grade	0.5%
Maximum grade	10%
Minimum tangent between curves of reverse alignment	100'
Minimum angle of street intersection	60 degrees
Maximum grade at intersection (within 50' of intersection)	3%
Minimum sight distance	150'

(2). Construction Standards:

Road Materials	Minimum Requirements
Aggregate sub-base	12"
Crushed aggregate base course	3"

C. Storm Water Management Design Standards.

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

(a) Where a subdivision is traversed by a stream, river or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. The Board may request that the stormwater management system be designed by a registered professional engineer.

(b) Drainage easements for existing watercourses or proposed drainage ways may be required at least 10' wide, conforming substantially with the lines of existing natural drainage.

(c) All components of the storm water management systems shall be designed according to the Road Ordinance, Article IX. and X. When the subdivision discharges directly to the sea, peak discharge may be increased from pre-development levels provided downstream drainage structures are suitably sized.

(2) Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the storm drainage system is not within the right-of-way of a public way, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.

(3) The storm drainage shall not overload existing storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

D. Additional Improvements and Requirements.

(1) Erosion Control. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction and cleanup stages.

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

E. Certification of Construction.

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

ARTICLE X, Performance Guarantees

A. Types of Guarantees.

With submittal of the application for final plan approval, the subdivider shall provide one of the following performance guarantees for an amount required to cover the total construction costs of all covered improvements, taking into account the time span of the construction schedule:

(1) either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;

(2) a performance bond payable to the Town issued by a surety company, approved by the Board of Selectmen and the Town Manager; or

(3) An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate. This credit must be approved by the Board of Selectmen and the Town Manager.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Town Officers and/or Town 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 a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

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

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 subdivider, 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 subdivision and may not be used for any other project or loan.

F. Release of Guarantee.

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Code Enforcement Officer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

G. Default.

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

ARTICLE XI, Waivers

A. What may be waived. The Planning Board may only waive:

(1) Submission Requirements. Submission requirements in Article IV.B.(h),(i),(j),(k),(q),(t),(u),(y)(z), Article V.B.3. (c)

(2) General Standards. VIII A.2. & B., IX.C. and all of X.

(3) The Planning Board may not waive or grant a variance from any of the standards or requirements in Tremont's Land Use Ordinance; only the Board of Appeals may grant such a waiver or variance.

B. When Given.

(1) Waivers in Minor Subdivisions to be given liberally. Unless the Board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided that make a waiver inappropriate, it shall, to permit a more practical and economical development, waive those portions of the submission requirements, the standards, the required improvements or the performance guarantees set forth above in applications for minor subdivisions, unless otherwise prohibited, that are unnecessary to protect the public health, safety and welfare, provided the waivers do not have the effect of nullifying the intent and purpose of the official maps, the Comprehensive Plan, the Tremont Land Use Ordinance or the provisions of this Ordinance, and provided the criteria of the State Subdivision Law are met.

(2) Waivers in Major Subdivision to be given sparingly. Unless the Board makes written findings of fact supported by clear and convincing evidence that there are special circumstances of a particular site proposed to be subdivided, it shall not

waive portions of the submission requirements, the standards, the required improvements or the performance guarantees set forth above. Upon such a specific finding supporting by clear and convincing evidence, it may waive portions of the submission requirements, the standards, the required improvements or the performance guarantees, unless otherwise indicated in the regulations, to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the official maps, the Comprehensive Plan, the Tremont Land Use Ordinance or the provisions of this Ordinance, and provided the criteria of the State Subdivision Law are met.

(3) In granting waivers to any of these regulations in accordance with the above, the Board shall require such conditions as will assure the objectives of these regulations are met.

(4) When the Board grants a waiver to any of the standards of these regulations, the final plan shall indicate the waivers granted and the date on which they were granted. It shall refer to Title 30-A, Section 4406, Subsection 1. B.

ARTICLE XII, Appeals

An aggrieved party may appeal any decision of the Board under these regulations to the Board of Appeals within thirty days.

ARTICLE XIII, Definitions

(To be used in conjunction with those definitions in the Tremont Land Use Ordinance.)

Abutter - The owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an application or appeal.

Complete Application - An application shall be considered complete upon submission of the required fee and all information required by these regulations for a preliminary plan. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

Comprehensive Plan - Any part or element of the overall plan or policy for development of the Town as defined in Title 30-A, MRSA, Section 4502.

Contiguous Lots - Lots which adjoin at any line or point, or are separated at any point by a body of water less than 15' wide.

Covered Improvements - Public improvements (roads, sidewalks, sewer, water) stormwater control and erosion control.

Densely-Developed Area - Any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

Driveway - A vehicular access-way serving 2 dwelling units or less.

Dwelling Unit - Any part of a structure which, through sale or lease, is intended for human habitation. For example: a dwelling unit includes a single-family dwelling, each unit of a multi-family dwelling, a condominium unit, and a time-share unit.

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.

Freshwater Wetlands - Freshwater swamps, marshes, bogs and similar areas which are 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 soil. They are not considered part of a great pond, coastal wetland, river, stream or brook.

High Intensity Soil Survey - A map prepared by a certified soil scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

Major Subdivision. Any subdivision that does not qualify as a minor subdivision.

Minor Subdivision. A subdivision that qualifies as a subdivision under Article I. B. (2) consisting of an aggregate of four or fewer lots or units in any ten year period no part of which is located in or abuts the Resource Protection Zone and no part of which is in the watersheds of Hodgdon or Seal Cove Ponds, and in which no road is proposed to be constructed.

New Structure - Includes any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purpose of this subchapter.

NGVD - National Geodetic Vertical Datum.

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

Primitive camping facilities - Permanent buildings and structures without plumbing, servicing as temporary living quarters only in a licensed camping area.

Principal Structure - Any building or structure in which the main use of the premises occurs.

Privateway - (as defined in Land Use Ordinance of the Town of Tremont) a route or track serving less than 3 units.

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

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

Right of Way - A legal right of passage over another person's ground or the area over which a right of way exists.

Road - (As defined in the Road Ordinance of the Town of Tremont). A route or tract consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material constructed for or created by the repeated passage of motorized vehicles. It must be a common access route for 3 or more units.

Streams, brooks - Means a channel between defined banks including the floodway and associated flood plain wetlands where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of top soil containing water-borne deposits on exposed soil parent material or bedrock.

Substantial Expansion -expansion by more than 30% measured as a percentage of estimated total cost.

Tract, or Parcel, of Land - All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

This ordinance becomes effective on May 14, 2019.

I attest this to be a true copy of this ordinance.

_____

Katie A. Dandurand
Town Clerk

Legislative History
5-14-91: Adoption by Town Meeting
5-11-93: Amended
8-19-96: Amended
5-13-97: Amended
5-9-00: Amended
5-10-05: Amended
5-8-18: Amended
1-12-19: Draft reviewed by Town Manager
3-12-19: Public Hearing
3-25-19: Draft certified by Selectboard for Town Meeting Warrant
5-14-19: Adoption by Town Meeting