SUBDIVISION ORDINANCE
TOWN OF LIBERTY, MAINE

**Amended per March 2024 Town Meeting- Updated Article II, Section 2.3, Paragraph 2, Page 10.*

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SUBDIVISION ORDINANCE FOR THE TOWN OF LIBERTY, MAINE

ARTICLE I: PURPOSES, AUTHORITY, AND ADMINISTRATION

SECTION 1.1: PURPOSES

The purposes of this Ordinance are to assure the comfort, convenience, safety, health, and welfare of the people of the Town of Liberty, to protect the environment and to promote the orderly development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Liberty, Maine, the Planning Board shall consider the following criteria and before granting approval shall make written findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A., section 4403, as amended. In accordance with Title 30-A, M.R.S.A, section 4404, as amended, the subdivision:

A. will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider the elevation of the land above the sea level and its relation to the flood plains; the nature of the soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; availability of streams for disposal of effluents; and will meet applicable state and local health and water resource rules and regulations;

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

C. will not cause an unreasonable burden on an existing water supply;

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

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

F. will provide for adequate solid and sewage waste disposal;

G. will not cause an unreasonable burden on the ability of the Town of Liberty to dispose of solid waste and sewage if Town services are to be utilized;

H. will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to Liberty's ponds, lakes and rivers;

I. will be in conformance with all applicable State and local plans, regulations, and ordinances;

J. that applicant will demonstrate proven adequate financial and technical capacity to meet the above stated standards;

K. that whenever situated in whole or in part within the watershed of any lake, pond or within two hundred (250) feet of any wetland, great pond or river, the proposed subdivision will not adversely affect the quality of the body of water or unreasonably affect the shoreline of that body of water. In making this determination, the Board shall at least consider the affect of the proposed land use on the quantity and quality of surface runoff generated by the site;

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

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

N. applicant will identify any freshwater wetlands within the proposed subdivision on any maps submitted as part of the application, regardless of the size of these wetlands; and,

O. will identify any river, stream or brook within or abutting the proposed subdivision on any maps submitted as part of the application;

P. will provide for adequate storm water management;

Q. will insure that 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 will have a lot depth to shore frontage ratio greater than 5 to 1;

R. that 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. that 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 an adjoining municipality in which part of the subdivision is located; and

T. that 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 granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel.

SECTION 1.2: AUTHORITY AND ADMINISTRATION

A. AUTHORITY:

1. These standards have been prepared in accordance with the provisions of Title 30-A, M.R.S.A., section 4403,as amended

2. These standards shall be known and may be cited as "SUBDIVISION ORDINANCE OF THE TOWN OF LIBERTY, MAINE."

B. ADMINISTRATION:

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

The provisions of this Ordinance shall pertain to all land proposed for subdivision as defined in Title 30-A, M.R.S.A., section 4401, as amended, within the boundaries of the Town of Liberty.

ARTICLE II: ADMINISTRATIVE PROCEDURES

SECTION 2.1: PURPOSE, AGENDA

A. PURPOSE:

The purpose of this Article is to establish an orderly, equitable and expeditious procedure for receiving and reviewing all subdivision applications.

B. AGENDA:

To be placed on the Board's agenda a preliminary application (available from Town Office) should be submitted along with preliminary sketch plans that include applicable portions of USGS topographic map(s) covering the area of the proposed subdivision, and shall be filed in the Town Office twenty-one (21) days in advance of a regularly scheduled meeting. A short narrative description of the intent of the applicant should be part of the submission. If submissions meet requirements of this Ordinance, the Chairman shall cause the matter to be added to meeting agenda and be publicly posted at least seven (7) days in advance of the scheduled meeting. If the submission is deemed insufficient Chairman will contact applicant as to deficiencies. This determination by the Chairman as to deficiencies is preliminary only and is not binding upon the Planning Board and is not a final determination of completeness with regard to the application or the adequacy or completeness of submissions.

"Upon submitting an application or pre-application for permit, or notice of construction, to the Town, applicant/ owner accepts that designated town officers and officials have an implicit right to visit property for purposes of validating information provided and to inspect for compliance both work in progress as well completed projects."

SECTION 2.2: PREAPPLICATION PRELIMINARY PHASE

A. PROCEDURE:

1. Preapplication Phase. Owner or Authorized Agent (applicant) shall request a preapplication meeting with the Planning Board and shall submit at least ten (10) copies of a sketch plan and application to the Town Office at least twenty-one (21) days in advance of the regularly scheduled meeting at which applicant wishes to discuss the proposal with the Planning Board. The purposes of this preapplication meeting between the applicant and the Planning Board are:

a. To classify the subdivision as a major or a minor subdivision.

b. To provide an opportunity for the applicant and the Planning Board to informally review the ideas for use of the land;

c. To discuss procedures for subdivision review and approval;

d. If road construction is involved in the proposal, to classify the road as either minor or collector;

e. To discuss any apparent potential problems associated with the subdivision; and

f. To arrange for on-site inspection of the subdivision site.

2. **Question and answer period.** Board may make specific, preliminary, suggestions to be incorporated by the applicant into subsequent submissions; and shall make a preliminary determination as to whether the application shall be reviewed as a mandatory Major Subdivision (all subdivisions of four (4) lots or more shall be considered Major Subdivisions for purposes of this ordinance).

3. **Town Jurisdiction** If the subdivision is located in more than one (1) municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss.

4. **The Board shall schedule, if appropriate,** an on-site inspection and shall notify the Code Enforcement Officer and the applicant of the time and date selected. Such date shall be publicly posted at least seven (7) days before the date scheduled.

B. SUBMISSION CONTENT:

The Preapplication Sketch and/or Preliminary Plan submissions shall contain: (simple sketch form is acceptable):

1. Location Map showing the proposed layout of streets, lots, and other features in relation to existing conditions. The Plan should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development.

The Sketch Plan shall be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located showing abutting property owners. The Sketch Plan shall be accompanied by a copy of a portion of the USGS topographic map of the area showing the outline of the proposed subdivision. And,

a. Shall delineate any existing subdivisions in the proximity of the proposed subdivision.
b. Shall show boundaries and designations of Zoning Districts.
c. Shall include an outline of the proposed subdivision and any remaining portion of the owner's entire contiguous holding, superimposed on or accompanied by a USGS topographic map.

C. ON-SITE INSPECTION:

The Board shall hold a public on site inspection of the property prior to the determination that a complete Final Plan has been submitted. Whenever possible, the Board shall hold its on-site inspection within thirty (30) days of reviewing a sketch/preliminary plan and shall publicly post date of site visit at least seven (7) days before.

D. RIGHTS NOT VESTED:

The submittal or review of the Preapplication Sketch and/or Preliminary Plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., section 302.

E. SITE CLEARING:

Site clearing, at this stage, shall be limited to that required for test pits and surveying.

SECTION 2.3: All SUBDIVISIONS

A. GENERAL:

The Board may require, where it deems necessary for the protection of public health, safety, and welfare, that a Minor Subdivision (less than four lots) comply with all or any of the submission requirements deemed appropriate for a Major Subdivision(more than 4 lots).

B. PROCEDURE:

1. Within six (6) months after the submission of a Preapplication Sketch and/or Preliminary Plan to the Board, the applicant shall submit an "Application for Approval of a Final Plan" at least twenty-one (21) days prior to a scheduled meeting of the Board. Failure to do so shall require the applicant to proceed through the preliminary phase again, with the resubmission of the Preapplication Sketch and/or Preliminary Plan to the Board. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations for modifications that may have been made by the Board.

2. All applications for Final Plan approval for Minor and Major Subdivisions shall be accompanied by a non-refundable general application fee of two hundred dollars ($200), plus three hundred dollars ($300) for each lot requested, payable by check to the Town of Liberty - Planning Board Account. In addition, the Board may require that additional amounts be added to the base fee paid by the applicant sufficient to enable the Board to secure outside technical, legal, and other assistance as the Board (in its sole discretion may determine) in order to review the proposed subdivision. If a public hearing is deemed necessary or required by the Board ~~including the review of Subdivisions of four (4) lots or more~~, an additional fee of one hundred and fifty dollars ($150) shall be required. *Amended March 2024

3. At least twenty-one (21) days prior to the Planning Board Meeting at which the proposed Final Plan is to be discussed, the applicant shall notify, in writing, by certified mail, return receipt requested delivery, all owners of abutting property, including abutters to any right-of-way leading to the subdivision, that an application for subdivision approval has been submitted to the Board, and the date of the meeting at which it is to be discussed. **The application shall be deemed incomplete until the applicant provides proof (copies of return receipts) of such notification to the Board.**

4. At least twenty-one (21) days prior to the Planning Board meeting at which the proposed Final Plan is to be discussed, the applicant shall provide ten (10) copies of the Final Plan and application to the Town Clerk.

C. FINAL PLAN SUBMISSIONS FOR A SUBDIVISION MUST INCLUDE:

1. The proposed name of the subdivision, or its identifying title, its proposed use, the name of the Town in which it is located, plus the Assessor's Map and Lot numbers for all properties contained in the subdivision.

2. The date the plan was prepared, north point, graphic map scale, names and addresses of the record owner(s), applicant(s), and individual(s) or company (ies) who prepared the plan, and the names of adjoining property owners.

3. A map of the boundary lines of the tract and all lots within it, giving complete descriptive data by bearings and distance, made and certified by a licensed surveyor. The corners of the tract and lots shall be located on the ground and marked by monuments. The plan shall include the type of monument set or found at each lot corner. The map shall also show all zoning district boundaries within the tract or shall indicate the applicable zoning districts encompassing the tract. All wetlands must be delineated.

4. A copy of the portion of the County Soil Survey covering the subdivision.

5. Contour lines showing elevations in relation to Mean Sea Level (normally twenty foot [20'] intervals or as Planning Board may request), drawn on a map scaled not more than fifty feet (50') to the inch.

6. Any portion of the subdivision in a flood-prone area, the boundaries of any flood hazard areas and the one hundred (100) year flood elevation shall be delineated on the plan, established by the most recent flood plain study of Waldo County.

7. A copy of the deed(s) on which the survey was based; and a copy of all covenants, deed restrictions, easements, right-of-ways, or other encumbrances currently affecting the property. If the applicant does not hold title to the property, copies of sales purchase agreement(s) or purchase option(s) for the proposed property.

8. Indication of the type of sewage disposal to be used in the subdivision.

9. When sewage disposal is to be accomplished by individual subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided demonstrating adequate soils for subsurface sewage disposal of each lot. A map showing the location of all test pits dug on the site and a profile of each shall be submitted.

10. When sewage disposal is to be accomplished by a cluster septic system, test pit analyses, prepared by a Licensed Site Evaluator shall be provided demonstrating adequate soils for a common leach bed(s). The developer

shall also provide a map showing the location of all pits dug on the site and an analyses of each; plans prepared by a registered engineer for all physical components of the system; and plans for financing and maintaining the system. If a homeowners association will be established for maintenance or financing of the system, the plan shall include documents governing the association and its duties and powers.

11. Indication of the type of water supply system(s) to be used in the subdivision.

12. Completed Liberty Subdivision Ordinance "Finding of Fact" checklist. The "Finding of Fact" checklist will serve as part of the basis of Board's action in the deliberative process of reviewing applications. Majority vote on each delineated finding of fact is required for approval of all permits.

D. ADDITIONAL FINAL PLAN SUBMISSIONS (IF DEEMED NECESSARY BY THE PLANNING BOARD) FOR A SUBDIVISION:

1. If the Board suspects groundwater problems, than statements of water history shall be supplied by abutting or neighborhood landowners to the Planning Board at the Board's election.

2. When lots of less than two (2) acres in size contain significant areas of slopes in excess of fifteen percent (15%), poorly drained or shallow soils generally unsuitable for building, or other physical limitations reducing the area of the lot on which structures, wells and septic systems may be placed, the Board may require the applicant to indicate specific areas on each lot (drawn at a scale of fifty feet [50'] to the inch or less) where such structures, wells and septic systems may be placed in accordance with minimum setback and distance requirements as set forth in the Maine Plumbing Code or other municipal ordinances.

3. Plans for the maintenance of all stormwater control measures.

4. A traffic impact analysis to include:

   a. An estimate of the number of daily vehicle trips generated by the project at peak seasonal use.

   b. A statement of sight distances at all intersections of all access roads to the subdivision and existing roads, and a safety analysis of these by a traffic safety engineer.

c. A State and/or Town Road Commissioner permit(s) satisfying requirements for any road cuts, contemplated traffic and placement of culverts

5. Any additional information that the Board deems necessary to adequately review the application when given unique site conditions.

E. MEETINGS AND HEARINGS - SCHEDULE AND CONTENT:

1. Within thirty (30) days of receipt of an application for a Final Plan the Board shall place the application on the agenda of the next regularly scheduled Board meeting. The applicant, or his/her duly authorized agent, shall attend the meeting of the Planning Board to discuss the Final Plan. At said meeting the Board shall notify the applicant whether or not the application is complete, and what, if any, additional submissions are required. In making this determination, the Board may decide, based on the information received, that the nature of the site and plan require a more detailed review, and shall indicate which additional submission requirements must be met. Subsequent submissions, for continued applications, must be received in Town Office at least fourteen (14) days before meeting in order to be placed on the agenda. **NOTE: The determination by the Board that the application is complete and the initial determination as to what additional submissions are required (notwithstanding the provisions of paragraph 3 hereinafter) are and remain preliminary determinations which may, as necessary, be revised by the Board as the Board may deem appropriate during the entire review process.**

2. The Board shall determine whether to hold a public hearing on the Final Plan application (A Public Hearing is mandatory for a Major Subdivision.) When a subdivision is located within five hundred feet (500') of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten (10) days prior to the hearing.

3. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the applicant.

4. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days and shall publish notice of the application pending, date, time, and place of the hearing in the local newspaper at least

two (2) times; the date of the first publication to be at least fourteen (14)days prior to the hearing.

5. Within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make written findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its finding of facts and reasons for any conditions or denial.

6. If approved, one (1) copy of the signed plan shall be forwarded to the Tax Assessor, and One (1) copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.

F. FINAL SUBMISSIONS FOR RECEIPT OF APPROVAL AND PERMIT:

1. The subdivision Final Plan shall consist of all approved submissions detailed in this Ordinance in the following form: two (2) reproducible, stable based transparent originals, one (1) to be recorded at the Registry of Deeds, the other to be filed at the Town Office and ten (10) copies of one (1) or more maps or drawings drawn to a scale of not more than one hundred feet (100') to the inch unless otherwise indicated below. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred feet (200') to the inch provided all necessary detail can easily be read. Plans shall be no larger than twenty-four (24) by thirty-six (36) inches in size, and shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board.

G. FINAL APPROVAL AND FILING:

1. No plan shall be approved by the Planning Board as long as the applicant is in default on a previously approved Plan or the applicant has failed to tender to the Town those fees requested by the Board or the financial guarantees as herein provided.

2. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two (2) or more

sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision.

3. No changes, erasures, modifications, or decisions shall be made to any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted to the Planning Board and the Board approves those revisions and modifications. The Board shall make findings that the revised plan meets the standards of this ordinance and of Title 30-A, M.R.S.A., section 4404. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

4. The approval by the Board of a subdivision Final Plan 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. The Board shall require the Final Plan to contain appropriate notes to this effect.

5. Failure to commence substantial construction relating to road or other improvements that are part of the subdivision application and approval of the subdivision within the period of time to which financial guarantees apply shall render the Plan null and void. The issuing bank providing such financial guarantees shall, as a requirement for approval of the subdivision application, be required to notify the Town in writing if letter(s) of credit guarantees relating to the approved subdivision are canceled. It is the responsibility of the applicant to notify the issuing bank of this requirement. 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.

SECTION 2.4: SPECIAL REQUIREMENTS AND ADDITIONAL PROCEDURES FOR MAJOR SUBDIVISIONS

A. SPECIAL REQUIREMENTS FOR MAJOR SUBDIVISIONS:

1. All applications for a Major Subdivision [more than four (4) lots] shall follow those requirements delineated in Article II, Section 2.3 along with the following requirements.

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

3. All parcels of land proposed as common use acreage for the lot owners, if any.

4. The location of any open space to be preserved and an indication of its improvement and management.

5. When the subdivision is located within a lake watershed, and the Board deems necessary high intensity soil survey conducted according to the standards in Article III, Section 3.1.M; and a report by a Registered Soils Scientist indicating how any limitations will be overcome. Otherwise, a copy of the Waldo County Soils Survey map covering the subdivision shall be presented. Where that soil survey shows soils which are generally unsuitable for the proposed uses, the Board shall require the submittal of a high intensity soils survey and a report by a Registered Soil Scientist indicating how the limitations will be overcome. High intensity soils surveys shall be mapped at a scale of one inch (1") to equal fifty feet (50').

6. A soil erosion and sedimentation control plan meeting the standards in Article III, Section 3.1.G, drawn at a scale of one inch (1") to equal fifty feet (50'), to include:

    a. Drawings showing present and proposed grading contours and elevations, with a contour interval of not more than five (5) feet.

    b. Drawings showing proposed clearing and construction sites, and the location of proposed erosion/sedimentation control measures, both temporary and permanent.

    c. Drawings showing detailed designs of all structural measures which are engineered permanent

diversion ditches, flumes, sediment basins, related elements, and copies of all calculations performed in the design of structures.

d. Construction specifications for all procedures, both structural and non-structural.

e. Calculations showing runoff quantities and peak discharge rates before and after development for a twenty-five (25) year, twenty-four (24) hour storm. Include a narrative discussion of all assumptions and generalizations made.

f. An estimate of the number of daily vehicle trips generated by the project at peak seasonal use.

g. Statement of sight distances at all intersections of all access roads to the subdivision and existing roads, and a safety analysis of these by a traffic safety engineer.

7. Evidence of financial and technical capability to carry on the project, to include:

a. An estimate of the cost of all construction items to be completed by the applicant prior to the sale of lots.

b. A statement of the types of professional assistance to be obtained for the design and construction of the above.

c. A plan for the financing of these costs. If personal funds are to be used, evidence of the availability of funds; if funds are to be obtained from a financial institution, a letter from that institution expressing its intent to finance and the extent of its financial commitment.

d. If any portion of the subdivision area is within the boundaries of any flood hazard areas and the one hundred (100) year flood elevation, this shall be delineated on the plan.

B. ADDITIONAL PROCEDURES FOR MAJOR SUBDIVISIONS:

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

a. Maine Department of Environmental Protection, under the Site Location of Development Act,

Alteration of Coastal Wetlands Act, Great Ponds Act, Fresh Water Wetland Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.

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

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

2. BEFORE THE BOARD GRANTS APPROVAL OF THE FINAL PLAN, THE APPLICANT SHALL MEET THE PERFORMANCE GUARANTEE REQUIREMENTS PRESCRIBED BY THE BOARD.

SECTION 2.5 ENFORCEMENT:

A. INSPECTION OF REQUIRED IMPROVEMENTS:

1. At least five (5) days prior to commencing each major phase of construction or required improvements (i.e. roads, runoff controls, septic systems, major land clearing or earth moving, etc.), the applicant or builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements.

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

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

B. VIOLATIONS AND ENFORCEMENT:

1. Failure to obtain a permit.

a. 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 these regulations.

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

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

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

e. Development 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 by the Board as provided in these regulations and recorded in the Registry of Deeds.

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

2. Violations of terms of a permit.

a. If the Code Enforcement Officer finds that any provision of this Ordinance or the terms of the subdivision permit are being violated, he/she shall notify in writing the person responsible for said violations (applicant, builder, or contractor) indicating the nature of the violation, ordering the action necessary to correct it and requiring that all construction activity be discontinued until such corrective measures have been initiated.

b. If the applicant/builder/or contractor fails to respond to such notice within five (5) days of receiving the notice, the Code Enforcement Officer shall so notify the Board of Selectmen who shall institute any and all proceedings necessary to enforce this Ordinance.

3. Fines.

a. Any person, firm, corporation or other legal entity who violates the provisions of this Ordinance shall be guilty of a civil violation and shall be fined not less than one hundred dollars ($100) nor more than two thousand five hundred dollars ($2,500) for each day of violation. Each conveyance, offering or agreement to transfer land on a subdivision which has not been approved as required by this Ordinance is a separate violation. Each day that a violation of the terms of the subdivision permit continues shall constitute a separate violation. All fines shall be paid to the Town of Liberty. Such persons shall also be liable for court costs and reasonable attorneys' fees incurred by the Town if the Town prevails in a dispute over violations.

ARTICLE III: PERFORMANCE STANDARDS

SECTION 3.1: GENERAL STANDARDS

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

A. CONFORMANCE WITH STATE AND LOCAL CODES:

All proposed subdivisions shall be in conformity with the provisions of all pertinent State and local codes and ordinances.

B. RETENTION OF OPEN SPACES, NATURAL OR HISTORIC FEATURES:

1. In any subdivision larger than twenty (20) lots or dwelling units or more, the applicant shall provide at least ten percent (10%) of the total area as common open space for the lot owners.

2. Land reserved for common open space (not to be counted when computing lots in subdivision) purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used

for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one (1) or more streets of at least two hundred feet (200'), and have no major dimensions of less than two hundred feet (200'). Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet (25') of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc., where necessary and appropriate.

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

C. LOTS:

1. Lots shall meet the requirements of the Town's Minimum Lot Size Ordinance, and shall not include the following areas in determining minimum acreage:

   a. Common roads and parking lots.

   b. Right-of-ways and easements.

   c. Easements or areas reserved for installation of common facilities such as sewage collection and treatment systems, and areas reserved for storm water runoff or sedimentation/erosion controls.

   d. Portions of the lot which, because of existing land uses or lack of access, are isolated and unavailable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.

   e. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions, such as, but not limited to: slopes greater than thirty percent (30%);

   f. Areas comprised of fifty percent (50%) or more of poorly drained soils, unless the applicant can

demonstrate specific engineering techniques to overcome the limitations to the satisfaction of the Planning Board.

g. Portions of the lot covered by surface waters, including intermittent streams.

2. The subdivision of tracts into parcels or lots with more than twice the required minimum lot size be laid out in such a manner as either to provide for or preclude future re-subdivision.

3. If a lot on one (1) side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream or road to meet the minimum lot size, unless it contains at least 20,000 square feet exclusive of items a through g in paragraph C.1 above.

D. UTILITIES:

1. The size, type and location of street lights, electric and gas lines, telephone and other utilities shall be shown on the plan and approved by the Board.

E. MONUMENTS:

1. Iron monuments shall be set at all street intersections and points of curvature, but no further than seven hundred fifty feet (750') apart along street lines without curves or intersections.

2. Iron monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is one hundred thirty-five (135) degrees or less.

3. Iron monuments shall be a minimum of five-eights inch (5/8") diameter and four feet (4') in length or anchored to bedrock and set in the ground at final grade level.

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

F. WATER SUPPLY:

1. Dug wells shall be permitted only if it is demonstrated that it is not economically feasible to develop other ground water sources, and shall be constructed so as to prevent infiltration of surface water into the well.

Unless otherwise permitted by the Board, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.

2. If a central water supply system is provided by the applicant, 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.

3. The Board may require the applicant to construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. In such cases an easement shall be granted to the Town granting access to the dry hydrants where necessary.

G. EROSION AND SEDIMENTATION CONTROL:

1. Construction of roads and site preparation for construction of buildings will result in the immediate and continuing erosion of soil and sedimentation of drainage ways and water bodies unless properly controlled. This causes cost, inconvenience, and potentially hazardous conditions when road ditches are filled with sediment. Sediment also degrades the rivers, streams, and lakes which ultimately receive runoff from eroding sites. Not only does it fill in shore areas with unsightly deltas of silt, it also carries with it nutrients which stimulate the growth of weeds and algae. It is the very fine soil-particles that carry these nutrients, and these are the most difficult to settle out of runoff. The following standards recognize that extra measures are therefore needed to limit the erosion of these particles and to filter or settle them out from the runoff when construction occurs in the drainage area of a lake or pond.

2. All earth changes will be designed, constructed, and completed in such a manner so that the exposed area of any disturbed land will be limited to the shortest time possible.

3. The Board may limit the area exposed at any one time, and may limit the times of the year when construction may occur when soil type or slope conditions pose serious potential for erosion and sedimentation.

4. On slopes greater than thirty percent (30%), there shall be no grading or filling within one hundred fifty feet (150') of the normal high water mark of any water body, except to protect the shoreland and prevent erosion.

5. Temporary vegetation; mulching and/or siltation fabrics shall be used to protect critical areas during development.

6. Sediment caused by accelerated soil erosion will be removed from runoff water to the maximum extent feasible through the use of debris basins, silt traps, sediment basins, or other suitable methods.

7. Any temporary or permanent facility designed and constructed for the conveyance of water around, through or from the site will be designed to limit water flow to non-erosive velocities.

8. The top or bottom of a cut or fill shall not be closer than ten feet (10') to a property line unless otherwise mutually agreed to by the affected parties. In no instance shall any cut or fill exceed a slope of three (3) to one (1).

9. Permanent soil erosion control measures for all slopes, channels, ditches or any other disturbed land will be completed within fifteen (15) calendar days after final grading has been completed. Seeding for a permanent vegetative cover shall take place no later than August 15, unless procedures described below are followed.

10. When it is not possible or practical to permanently stabilize disturbed land as required in subsection (8) above, or when final grading will not be accomplished on a disturbed site for a period of more than thirty (30) calendar days, temporary erosion control measures will be implemented within thirty (30) calendar days of the exposure of the soil. Seeding for a temporary vegetative cover shall take place no later than September 30.

11. Erosion control and sedimentation control plans shall be engineered according to the procedures and criteria described in USDA Soil Conservation Service technical manuals, and for projects in lake watersheds, the *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, September, 1992 revision, as amended.

H. STORMWATER RUNOFF CONTROLS:

1. When land use is changed from a forested natural state to residential development, there is a significant change in the rate, amount and quality of runoff from

the site which can be quite damaging to downstream areas unless properly controlled. Runoff travels faster over paved and cleared areas, and less is infiltrated on the site. This faster, increased volume of runoff picks up more nutrient laden sediment, humus and organic materials and carries these into the receiving water bodies to stimulate weed and algae growth. A study conducted by the Maine Department of Environmental Protection in the Augusta Area in 1986 showed phosphorus export from a one (1) acre lot size residential area to be 7.2 times greater than natural back ground levels. Phosphorus is the nutrient responsible for weed and algae problems in lakes. The following standards recognize that it is therefore critical to control runoff from development in lake watersheds to avoid long term and irreversible degradation of water quality.

2. Storm water runoff from a proposed development shall be managed to limit the rate of outflow from the site to predevelopment levels up to the level of intensity of a twenty-five (25) year twenty-four (24) hour storm. Peak flow shall be determined using the *Stormwater Management for Maine: Best Management Practices,* published by the Maine Department of Environmental Protection (1995), as amended.

3. For developments within the direct drainage of a lake or pond, runoff shall also be managed to infiltrate on-site any excess runoff created by the development for a one (1) year twenty-four (24) hour storm, through the use of French drains, infiltration basins, or other suitable measures.

4. Where soils and slope conditions preclude the engineering of onsite infiltration measures, the area of the site which may be occupied by roads, driveways, lawns and cleared areas, structures and impervious surfaces shall be limited to five percent (5%), and shall be so stated on deed restrictions.

5. Calculations of peak runoff and excess runoff required in subsections (a) and (b) above shall include all runoff that drains through the site from offsite areas unless provisions are made to divert such runoff from the site.

6. Storm water management plans shall be based, as nearly as possible, on the natural drainage patterns of the site.

7. The design of piped or open channel systems will be based on a ten (10) year flow frequency without

overloading or flooding beyond channel limits. In addition, areas expected to be flooded by a runoff of a twenty-five (25) year frequency will be designated, and no structures will be allowed within such area.

8. Where the site is traversed by a water course, drainage way, channel or stream (whether natural or constructed), a drainage right-of-way will be provided that substantially conforms to such watercourse, and shall be at least thirty feet (30') in width.

9. Any grading or other construction activity on the site shall be so conducted to avoid alteration of natural drainage ways such that drainage patterns onto or from adjacent parcels will be adversely affected.

10. The proposed storm water management system must be designed by a registered professional engineer. Where permanent embankment type storage or retention basins are planned, the basins will be designed according to the standards outlined in the Soil Conservation Service Engineering Field Manual or other appropriate references.

I. 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. The landscape shall be preserved in its natural state insofar as practical by minimizing grading and excavating, and when located in a lake watershed, by minimizing tree removal or disturbance to the natural ground cover.

J. CLUSTER DEVELOPMENT:

1. Purpose: The purpose of these provisions is to allow for innovative concepts of housing development where maximum variations of design may be allowed, provided that the net residential density shall be no greater than is permitted. To this end, the layout, and dimensional requirements of this Ordinance and the Town's Minimum Lot Size Ordinance may be altered without restriction except that in no case shall lots abutting a water body be less than one (1) acre in size or less than one hundred feet (100') in shore frontage.

2. Basic requirements.

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

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

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

d. No building shall be constructed on soil types classified by the Soil Conservation Service (S.C.S.) as being poorly or very poorly drained.

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

f. In cluster developments with individual lot sizes of twenty thousand square feet (20,000') or less, all dwelling units shall be connected to a common water supply and distribution system.

g. In cluster developments with individual lot sizes of twenty thousand square feet (20,000') or less, all dwelling units shall be connected to a central collection and treatment system.

K. DEDICATION AND MAINTENANCE OF COMMON OPEN SPACE AND SERVICES:

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

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

3. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that it shall not be used for future building lots.

4. Where a homeowners association shall have the responsibility of maintaining the common property or services:

a. The by-laws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.

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

c. Covenants for mandatory membership in the homeowners association setting forth the owner's rights, interests, and privileges in the association and providing a map showing the location of all pits dug on the site and an analyses of each; plans prepared by a registered engineer for all physical components of the system; and to defray the expenses connected with the maintenance of common property and tax assessments.

L. CONSTRUCTION IN FLOOD HAZARD AREAS

1. When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed in accordance with standards in the most recently adopted flood hazard ordinance. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

M. SOILS SURVEYS - STANDARDS FOR CONDUCTING:

1. High intensity soil surveys shall be conducted in accordance with the "Standards for High Intensity Soil Surveys" adopted by the Maine Association of Professional Soil Scientists (2/87 and any subsequent amendments). Such standards include but are not limited to the following: Soil types shall be identified down to the one tenth 1/10 acre or less at a scale of not more than one (1) inch equals fifty (50) feet. The mapping units shall be the soils series. Single test pits and their evaluation shall not constitute a high intensity soil survey

SECTION 3.2: STREET AND STREET-RELATED STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS:

A. PURPOSE:

The construction of roads can have a major effect upon safety, municipal services, and the environment of the Town. The design and construction of such roads may also adversely affect soil erosion and water quality; the severity of periodic flooding; police and fire protection; safety conditions and traffic congestion; the visual character of the neighborhood and the Town; the future use of surrounding land; and maintenance costs and requirements. These standards are intended to avoid those adverse impacts.

B. GENERAL STREET DESIGN STANDARDS:

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

2. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this Ordinance), the Final Plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment and Paving (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements as described in this Ordinance or the Shoreland Zoning Ordinance. The reserve area shall not be included in any lot, but shall be reserved to be deeded to the Town or State.

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

4. No street names shall be used which will duplicate or be confused with the names of existing Town roads.

5. All streets shall be designed so that they will provide safe vehicular travel and traffic patterns. Insofar as possible, streets shall conform to existing topography, and excessive cuts and fills shall be avoided.

6. Roads may only be located in areas known to flood if they are so designed so as to keep the road surface above water levels known or anticipated for a twenty-five (25) year storm.

7. When the Planning Board determines it is necessary in order to protect the environment, streets shall be designed by a registered, professional engineer.

C. STREET DESIGN SPECIFICATIONS:

1. The minimum width for a right-of-way for any street whether public or private shall be fifty (50) feet. The centerline of the roadway shall be the centerline of the right-of-way.

2. The minimum travel width of collector and minor streets shall be twenty (20) feet, and for private rights-of-way, fifteen (15) feet.

3. The minimum width of shoulders shall be two (2) feet, and they shall be graded to drain water away from the road surface.

4. The surface of all streets shall have a four inch (4") crown from the center line to the edge of the travel way.

5. Grades of all streets shall be reasonably minimal but shall not be less than six inches (6") per one hundred feet (100') or more than eight feet (8') per one hundred feet (100') unless specifically approved by the Planning Board.

6. A dead end street or cul-de-sac shall be provided with a suitable turnaround at the closed end. When a turning circle is used, it shall meet the following requirements for radii: Property line sixty-five feet (65'); outer edge of pavement forty feet (40'). The Board may require the reservation of a fifty foot (50') easement in line with the street to provide continuation of the road where future subdivision is possible.

7. Side slopes in either cut or fill situations shall not be graded steeper than 2:1. All embankments shall be loamed to a depth of not less than four inches (4"), fine graded, fertilized, limed, and seeded to establish a good cover of grass.

8. All streets shall be designed to provide adequate, safe, visibility for both pedestrians and vehicular traffic. Sight distances shall be provided according to the following table, or Maine Department of Transportation requirements, whichever sight distances are greater:

POSTED SPEED LIMIT (MPH)	25	30	35	40	45	50	55
SIGHT DISTANCE (FEET)	250	350	300	400	450	500	550

9. All changes in grade shall be connected by vertical curves to provide for the minimum sight distance in the above table.

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

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

12. Streets shall be laid out to intersect at right angles wherever possible; under no circumstances shall a street intersect with a collector or arterial street at less than a sixty (60) degree angle.

13. Cross (four-cornered) street intersections shall be avoided insofar as possible. T-intersections formed on opposite sides of the same road shall have a minimum distance of two hundred feet (200') between center lines.

14. Note: For driveway or entrance access to state or state aid roads, a permit issued by Maine Department of Transportation is generally required (Title 23, M.R.S.A., sections 704 et seq., as amended). The applicant should obtain that permit before the subdivision application is reviewed and/or approved by the Town.

D. STREET CONSTRUCTION SPECIFICATIONS: (All subject to state recommendations existing at time of application approval)

1. Preparation:

   a. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50) foot intervals except as needed for surveying.

   b. Before grading is started, the entire right-of-way, other than trees and vegetation intended for

preservation, shall be cleared of all stumps, roots, brush, and other objectionable material. Large boulders and tree stumps shall be removed from the roadway.

c. All organic materials shall be removed to a depth of one foot (1') below the sub grade of the roadway. On soils which have been identified as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet (2') below the sub grade and replaced with material meeting the specifications for gravel aggregate sub-grade below.

2. Sub grade:

a. The sub grade shall be carefully graded and compacted. Sub grade fills shall be composed of sand or gravel or hard, durable particles, free of vegetative matter, lumps, or balls of clay.

b. Gravel Base:

(i). The gravel base course shall be at least twelve (12) inches deep, and shall be composed of sand or gravel of hard, durable particles, free of vegetative matter, lumps, or balls of clay, and shall have a maximum stone size of six (6) inches in diameter.

(ii). Two feet (24 inches) of gravel or more may be required in cut sections if earth or ledge is encountered or in wet or swampy areas. Gravel shall be spread in layers not over six (6) inches deep and each layer shall be thoroughly compacted before the next is laid.

3. Street or Travel Surface:

a. If the street is to have a gravel surface it shall be constructed with a depth of six (6) inches with a maximum rock size of two (2) inch diameter.

b. If the street is to have a paved surface, it shall meet the following specifications:

(i). Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plan mix grade B.

(ii). Minimum standards for the surface layer of pavement shall meet the Maine Department of Transportation specifications for plan mix grade C with an aggregate size no more than 3/4 inch maximum.

(iii). The compacted thickness of the binder course shall be two (2) inches; the compacted thickness of the surface course shall be one (1) inch, for a total pavement thickness, after compaction, of three (3) inches.

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

E. STORM DRAINAGE STREET CONSTRUCTION STANDARDS:

1. The collection and management of storm water runoff on the site shall be designed to meet the general standards set forth in Article III, Section 3.1H of this Ordinance.

2. Drainage from streets shall be designed to prevent standing water on the surface or the shoulder. No surface drainage shall be conveyed or diverted across a shoulder.

3. Where ditches are required to remove storm and surface water from streets they shall have side slopes no greater than 2:1 on back slopes and 3:1 on in-slopes, and longitudinal slopes no less than one-half percent (1/2%).

4. Culvert sizes shall be determined on the basis of estimated runoff from the total area served. Minimum culvert size shall be fifteen (15) inches diameter. Minimum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in a fine granular compacted material containing no stones larger than three (3) inches, lumps of clay, or organic matter, reaching a minimum of six (6) inches, after compaction, below the bottom of the pipe extending to six (6) inches, after compaction, above the top of the pipe.

5. Pipes:

a. Corrugated Metal Pipe shall meet the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than five percent (5%).

b. Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the 0.01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek." Perforated Concrete Pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.

c. Polyvinylchloride (PVC) pipe shall meet the requirements of AASHTO designation M278: and any gaskets shall meet the requirements of ASTM designation D3212.

F. 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 clean-up stages.

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

G. CERTIFICATION OF CONSTRUCTION:

1. Upon completion of street construction a written certification signed by the Code Enforcement Officer shall be submitted to the Planning Board at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations. "As built" plans shall be submitted to the Planning Board.

ARTICLE IV: PERFORMANCE GUARANTEES

SECTION 4.1: PERFORMANCE GUARANTEES:

A. IMPROVEMENTS GUARANTEED: With submittal of the application for Final Plan approval, the applicant shall provide performance guarantees for an amount adequate to cover the total construction costs of the following improvements:

1. All required monumentation (Article III, Section 3.1.E); all required or proposed central water supply systems (Article III);

2. All required or proposed cluster septic systems (Article II and Article III); all required storm water runoff and erosion control measures (Article II, and Article III);

3. All engineered streets (Article II and Article III, Section 3.2); and any other improvements required by the Board. In calculating the costs of all such improvements, the applicant shall take into account the time-span of the construction schedule and the inflation rate for construction costs;

4. The conditions of the performance guarantee shall be determined by the Board.

B. TYPES OF GUARANTEES: With submittal of the application for Final Plan approval, the applicant shall provide one of the following performance guarantees for the amount determined above:

1. A performance bond payable to the Town issued by a surety company, and approved by the Board of Selectmen;

2. 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, approved by the Board of Selectmen; or

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

4. An offer of conditional approval limiting the number of units built or lots sold and/or deeding such lots to the Town until all required improvements are constructed.

C. CONTENTS OF GUARANTEE: The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction;

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 applicant, 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 established for the construction of the subdivision and may not be used for any other project or loan.

F. 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 applicant, 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 applicant 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 applicant and the amount withdrawn to complete the required improvements.

G. 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 whatever 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.

H. 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 Municipal Officers, the Board and the applicant. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

ARTICLE V: APPEALS

SECTION 5.1: APPEALS:

An aggrieved party may appeal any decision of the Board under this Ordinance to Waldo County Superior Court.

ARTICLE VI: VALIDITY, SEPARABILITY, AND CONFLICT WITH OTHER ORDINANCES

SECTION 6.1: VALIDITY AND SEPARABILITY, AND CONFLICT WITH OTHER ORDINANCES:

A. VALIDITY AND SEPARABILITY:

Should any section or provision of this Ordinance be declared by any court to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.

B. CONFLICTS WITH OTHER ORDINANCES:

Whenever the requirements of this Ordinance are inconsistent with the requirements of any other ordinance, code or statute, the more restrictive requirements shall apply.

ARTICLE VII: DEFINITIONS

SECTION 7.1: DEFINITIONS

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

ABUTTER: One whose property abuts, is contiguous, or joins at a border or boundary, including the property across the street, road, public way or private way.

APPLICANT: Owner or Authorized Agent and where applicable shall mean and be used interchangeably with "Subdivider", "builder", "contractor" etc.

AUTHORIZED AGENT: Anyone having written authorization to act on behalf of a property owner, signed by the property owner.

CHANNEL: A natural or artificial watercourse with definite beds and banks to confine and conduct continuously or periodically flowing water. Channel flow is water flowing within the limits of the defined channel.

CLUSTER SUBDIVISION: A subdivision in which the lot sizes are reduced below the Town's minimum lot size in return for the provision of permanent open space owned in common by lot/unit owners, or a land conservation organization. Clustering shall not be used to increase the overall net residential density of the development.

CODE ENFORCEMENT OFFICER: A person appointed by the Municipal Officers to administer and enforce these ordinances.

COMPLETE APPLICATION: An application shall be considered complete upon submission of the required fee and all information required by these Ordinances for a Final Plan. The Board shall issue a receipt to the applicant upon it's determination that an application is complete.

COMPREHENSIVE PLAN or POLICY STATEMENT: Any part or element of overall plan or policy for development of the Town as defined in Title 30-A, 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.

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

DIRECT DRAINAGE OF A LAKE OR POND: Any land which drains directly to a lake or pond, or to a tributary of a lake or pond if that tributary and all its branches drains less than 25 square miles.

DRIVEWAY: A vehicular access-way serving two (2) dwelling units or less.

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

FRONTAGE: The linear distance, measured along the front lot line which separates the lot from a public or private road, but not including a private driveway providing access to more than one (1) lot.

FRONTAGE, SHORE: The horizontal distance, measured in a straight line, between the intersections of the lot lines with the shoreline at normal high water elevation.

HIGH INTENSITY SOIL SURVEY: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the Maine Association of Soil Scientists, which identifies soil types down to one tenth (1/10) acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single test pits and their evaluation shall not be considered to constitute high intensity soil surveys.

LOT: A parcel of land occupied or capable of being occupied by one (1)building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by ordinances, and having frontage upon a public street, right-of-way or private way.

100 YEAR FLOOD: The highest level of flood that, on the average, is likely to occur once every one hundred 100 years (that has a one percent [1%] chance of occurring in any year).

NORMAL HIGH WATER ELEVATION OF INLAND WATERS: That line on the shores or banks of non-tidal waters which is apparent because of the contiguous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups:

Water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined, (rockslides, ledges, rapidly eroding or slumping banks) the normal high water elevation shall be estimated from places where it can be determined by the above method.

NET RESIDENTIAL ACREAGE: The total acreage available for the subdivision, and shown on the proposed subdivision plan, minus the area for streets, right-of-ways, or access areas, areas which are unsuitable for development and areas devoted to common facilities or utilities.

NET RESIDENTIAL DENSITY: The average number of dwelling units per net residential acre.

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

OWNER: Person or persons who have title to property being considered for subdivision.

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

PLANNED UNIT DEVELOPMENT: A development planned and constructed by single developer for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treats the developed area in it's entirety to promote the best use of land, including the creation of open space, a reduction in the length of road and utility systems, and the retention of the natural characteristics of the land.

PLANNING BOARD: The Planning Board of the Town of Liberty, pursuant to Title 30, M.R.S.A., 4956.

PRELIMINARY PLAN: The preliminary information and drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

RECORDING PLAN: A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information that is not relevant to the transfer of an interest in the property.

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

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

STREET CLASSIFICATIONS:

ARTERIAL STREET: A major thoroughfare which serves as a major traffic way for travel between and through the Town.

CONNECTOR STREET: A street servicing at least fifteen (15) lots or dwelling units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

MINOR STREET: A street servicing fewer than fifteen (15) lots o dwelling units.

PRIVATE RIGHT OF WAY: A vehicular access way serving more than two (2) dwelling units.

SUBDIVIDER: An individual, firm, association, syndicate, partnership, corporation, trust, or any other legal entity, or agent thereof, that proposes to build a subdivision. The term "subdivider" includes "applicant" "developer", "builder".

SUBDIVISION: As defined by Title 30-A M.R.S.A, §4401, as amended. **IMPORTANT: SEE APPENDIX A FOR STATE DEFINITION OF A SUBDIVISION.** The Town has elected to count lots of 40 acres or more as lots for the purposes of Title 30-A M.R.S.A, §4401, 4. Subdivisions, 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. (VOTED AND ACCEPTED MARCH 25, 2006)

SUBDIVISION, MAJOR: Any subdivision containing more than four (4) lots or dwelling units.

SUBDIVISION, MINOR: Any subdivision containing not more than four (4) lots or not more than four (4) building/dwelling units.

SUBMISSIONS: Plans, sketches, overlays, drawings, surveys, etc. that are submitted to support an application. Unless otherwise specified by Board 10 copies of each submission are required.

TRACT OR PARCEL OF LAND: All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, or a private road established by the abutting land owners.

APPENDIX A: STATE DEFINITION OF A SUBDIVISION

Title 30-A M.R.S.A, §4401, as amended

(Note: This definition is valid as of February 8, 2006 and is provided as a reference only. It is the responsibility of the Town and the applicant to ensure that they follow the current definition, as found in state statutes referenced above, or stricter standards, if elected by the Town in ordinance.)

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 as 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. [2001, c. 359, §1 (amd).]

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. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

C. A lot of 40 or more acres must be counted as a lot, except:

(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 the 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. [2001, c. 651, §1 (amd).]

D. [2001, c. 359, §2 (rp).]

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. [2001, c. 359, §3 (new).]

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. [2001, c. 359, §3 (new).]

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. [2001, c. 359, §3 (new).]

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. [2001, c. 359, §3 (new).]

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. [2001, c. 359, §3 (new).]

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. [2001, c. 359, §3 (new).]

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. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

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. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new).]

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. [1989, c. 104, Pt. A, §45 and Pt. C, §10 (new); c. 497, §2 (amd).]

H. [2001, c. 651, §2 (rp).]

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. [2001, c. 651, §3 (new).]

I. 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. [2001, c. 359, §5 (amd).]

[2001, c. 651, §§1-3 (amd).]

TOWN OF LIBERTY

BOARD OF SELECTMEN
7 Water Street
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Ph. 207-589-3014
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Melinda Steeves, 1st Selectman, Assessor
Danny McGovern, 2nd Selectman, Assessor
Duane Jewett, 3rd Selectman, Assessor

To Nicole Gates, Deputy Town Clerk of the Town of Liberty: we hereby certify to you that the document to which we have affixed this certificate is a true copy of the official text of an ordinance entitled "Subdivision Ordinance Town of Liberty, Maine," Which was approved by voters on April 6, 2024.

Pursuant to 30-A M.R.S.A. §3002(2), you will retain this copy of the complete text of the ordinance as a public record and make other copies available for distribution to the voters, and you will ensure that copies are available at the town meeting on the day of the vote.

Dated: October 1, 2024

Melinda Steeves, First Selectman

Danny McGovern, Second Selectman

Duane Jewett, Third Selectman

ATTEST: A true copy of an ordinance entitled "Subdivision Ordinance Town of Liberty, Maine," as certified to me by the municipal officers of the Town of Liberty on the 1st day of October 2024.

Nicole Gates, Deputy Town Clerk