# Town of Milbridge

# Subdivision

# Ordinance

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**Dated:** June 5, 2006

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## Article I – Purposes

'he purposes of these regulations are Sept 3, 1971

1.1 To provide for an expeditious and efficient process for the review of proposed subdivisions;

1.2 To clarify the criteria of the state Subdivision Law, Title 30-A M.R.S.A., Sections 4401-4406.

1.3 To assure that new development in the Town of Milbridge meets the goals and conforms to the policies of the Milbridge Comprehensive Plan;

1.4 To assure the comfort, convenience, safety, health and welfare of the people of the Town of Milbridge;

1.5 To protect the environment an conserve the natural and cultural resources identified in the Milbridge Comprehensive Plan as important to the community;

1.6 To assure a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures.

1.7 To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and

1.8 To promote the development of an economically sound and stable community.

## Article II – Authority and Administration

2.1 **Authority**

**A.** These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.

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

'.2 **Administration**

**A.** The Planning Board of the Town of Milbridge, hereinafter called the Board, shall administer these regulations.

**B.** The provisions of these regulations shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Milbridge.

2.3 **Amendments**

**A.** These regulations may be amended by:

1. The Legislative Body of the Town of Milbridge.
2. The Planning Board if the Legislative Body has not adopted or amended the standards.

**B.** 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 III – Definitions

In general, words and terms used in these regulations shall have their customary dictionary meanings. More specifically, any word or term defined in the Milbridge Zoning Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

**Affordable Housing:** Housing units which will meet the sales price and/or rental targets established by the Comprehensive Plan for housing affordability.

**Applicant:** The person applying for subdivision approval under these regulations.

**\pplicant Fee:** Three Hundred ($300) per lot NON-REFUNDABLE.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate ınd this minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on ensitive natural resources.

**Capital Improvements Program (CIP):** The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**Capital Investment Plan:** The identification of the projects which need to be considered for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

**Cluster Subdivision:** A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

**Common Open Space:** Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

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

**Complete Substantial Construction:** The completion of no less than thirty percent the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

**Comprehensive Plan:** A document or interrelated documents adopted by the Legislative Body, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

**Conservation Easement:** A nonpossessory interest in real property imposing limitations or affirmative obligations, the purpose of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Density:** The number of dwelling units per acre of land.

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

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the great pond without first passing though an upstream great pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a register land surveyor showing where the drainage divide lies.

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

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

**Engineered Subsurface Waste Water Disposal System:** A subsurface waste water disposal system designed, installed, and operated as a signal unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

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

**Freshwater Wetland:** 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 soils; and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a signal owner.

**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 the point. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

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

**High Water Mark:**
**Coastal Waters:** The elevation at which vegetation changes from predominantly salt tolerant to predominantly non-salt tolerant. By way of illustration, salt tolerant vegetation includes, but is not limited to: salt marsh grass, salt meadow hay, black arrowgrass, seaside lavender, silverweed, salt marsh bulrush, seaside plantain, orach, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the high water mark shall be the identifiable debris line left by non-storm tidal action. On a sand dune, the high water mark shall be the mean seaward limit of salt tolerant vegetation.

**Inland Waters:** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

**Level of Service:** A description of the operating conditions a driver will experience white traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1985 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

**Lot Size:** Minimum Lot Size in a Subdivision:

| | |
|---|---|
| Residential Lot Size: | 87,120 Square Feet (2 acres) |
| Residential Lot Frontage: | 200 Ft. Shore Frontage |

Lots created before June 6, 2006 will be exempt from the new Lot Size requirements.

**Multifamily Development:** A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

**Municipal Engineer:** Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

**Net Residential Acreage:** The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development as outlined in Section 12.11.C.3.

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

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

**Planning Board:** The Planning Board of the Town of Milbridge.

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

**Professional Engineer:** A professional engineer, registered in the State of Maine.

**Public Water System:** A water supply system that provides water to at least fifteen service connections or services water to at least 25 individuals daily for a least thirty days a year.

**Recording Plan:** An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show on information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**Reserved Affordable Housing:** Affordable housing which, is restricted by means of deed covenants, financing restrictions, or other binding, long term methods to occupancy by households making 80% of the area median household income.

**Set Backs:** Minimum Lot Setback Requirements. All structures, Except those which are water dependent, must be set back from the normal high-water line of any great pond or river, upland edge of a coastal wetland, including all areas affected by tidal action, or upland edge of a freshwater wetland and all land areas within 100 feet, horizontal distance, of the normal high water line of a stream.

All structures shall be set back at least 25 feet from the edge of the traveled way of any road, public or private.

All structures will be set back at least 25 feet from all abutting property owners lot sidelines.

Lots created before June 6, 2006 will be exempt from the New Set Back requirements.

**Sight Distance:** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in these regulations as a reference for unobstructed road visibility.

**Sketch Plan:** Conceptual maps, ~~renderings~~s, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval May be used by the applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

**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.

**Street:** Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

**Street Classification**

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

*List streets designated as arterials in the Comprehensive Plan or other planning documents.*

**Collector Street:** A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

**Cul-de-sac:** A street with only one outlet and having the other end for the reversal of traffic movement.

**Industrial or Commercial Street:** Streets serving industrial or commercial uses.

**Minor Residential Street:** A street serving only residential properties and which has an average daily traffic of less than 200 vehicles.

**Private Right of Way:** A minor residential street serving no more than eight dwelling units, which is not intended to be dedicated as a public way.

**Municipal Subdivision Law:** A subdivision, as defined by State statute, must be reviewed and approved by a municipal reviewing authority. Title 30-A§ 4301 defines the municipal reviewing authority as the planning board, agency or office if one exists, or the municipal officers where there is no planning board. It is a code enforcement officer's responsibility to identify a proposed development as a subdivision, in order to avoid prohibited issuance of permits.

Section 4401-4407 provide the framework and content of the municipal subdivision statute. Section 4401 defines a subdivision as the division of a parcel of land into three or more lots within a five-year period. There are, however, a number of exceptions and exemptions to be considered. A complete definition of a subdivision appears below.

In 2001 and 2002, the Legislature amended many of the exemptions in the law. The 2001 amendments became effective on September 21, 2001 and the 2002 amendments became effective on July 25, 2002. Any transactions for which the deed has been signed after these dates should be looked at in light of these new restrictions.

A subdivision is the division of a parcel of land into three or more lots within a five year period (beginning on or after September 23, 1971) whether accomplished by sale, lease, development, buildings, or "otherwise." The first division creates the first two lots and the next division of either of the first two lots, by whomever, creates the third lot unless:

1. both divisions are accomplished by someone who has retained one of the lots for their own use as their principal residence for at least five years immediately prior the second dividing. That is, the subdivider must have lived in the "homestead" for the five-year period immediately preceding the creation of the third lot. In addition, both divisions must be accomplished by the person who has lived in the homestead for five years. If the owner of the homestead sells one lot, the buyer of that lot cannot then divide it within five years without creating a subdivision. After five years, the lot sold is no longer part of the original parcel and further division would be possible without triggering subdivision review.
2. the division of the tract or parcel is otherwise exempt.

Lots created by the following transactions are exempt from being counted in determining whether three lots are created in a five-year period unless the intent of the transfer is to avoid review under the law:

- any division created by devise (left in a will);
- condemnation (taken through eminent domain proceedings);
- order of a court (divorce settlement, bankruptcy);
- gift to a person related to the donor by blood, marriage, or adoption provided the property has been owned by the donor for at least five years prior to the gift. The 2001 amendments added five-year ownership restrictions and two other restrictions to the gift exemption. The recipient of the gift must be within the second degree of relation (that is a spouse, parent, grandparent, brother, sister, child or grandchild). In order to define what constitutes a gift, the law now stipulates that there may be no consideration in excess of 50% of the assessed value of the lot. The statute rescinds the exempt status of any lot transferred to someone not related to the original owner, if the transfer takes place within 5 years.
- Gift to a municipality; or
- Transfer of any interest in land to the owner of land abutting that land provided a new lot is not created. The law now forbids the abutter from reselling the land transferred within five years without it being considered a lot. The transfer to an abutter, to be exempt, must be to the abutter(s) only. That is, those whose names currently appear on the deed to the property abutting may have their name appear on the deed to the property transferred.

Prior to July 25, 2002 lots 40 or more acres in size were not counted as lots unless the lot or the original parcel was located, in whole or in part in a shoreland zone, or the municipality had adopted a more restrictive ordinance and decided to count all 40 acre (or larger) lots. Amendments to the Subdivision Law took effect on July 25, 2002 to exclude 40-acre lots from exemption. As of this date a lot of 40 or more acres must be counted as a lot, except 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 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. Code enforcement officers should be familiar with the municipality's subdivision ordinance to know whether 40-acre lots are exempt or not.

A subdivision also includes the division of a new structure or structures on a 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 parcel, 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. Under the statutory definition, the division of a new structure into three or more commercial or industrial uses is not a subdivision. A "new structure" is any structure or portion of a structure for which construction began on or after September 23, 1988.

As part of the 2001 amendments to the statute, municipalities were prohibited from expanding the definition of subdivision to include any divisions other than specifically listed in the statute until October 1, 2002. The State Planning Office has been charged with conducting a study on the adoption of definitions that expand what is considered a subdivision and report back to the Legislature. It is possible that as a result of that study that the Legislature will either extend the prohibition permanently or repeal it and give municipalities greater flexibility.

The effective date of the Subdivision Law was September 23, 1971. Subdivisions created prior to that date are exempt om review. These include:

1. subdivisions previously approved in accordance with the laws then if effect. Prior to 1971 Main law required municipalities to review plans only when they were going to be recorded in a registry of deeds, but not otherwise. Thus, municipal ordinances often provided for review, but did not require it, making this a difficult exemption to prove;
2. previously existing subdivisions that did not require approval under the law (previously existing means the lots were actually surveyed and marked by steel pins or regular markers and numbered, State ex rel Brennan v. R.D. Realty Corporation); and
3. subdivisions for which a plan was legally recorded in the proper registry of deeds before September 23, 1971.

The Subdivision Law also exempts a subdivision created at any airport within an airport layout plan that has received final approval from the airport sponsor, The Department of Transportation and the Federal Aviation Administration.

The final exemption in the law is for a subdivision created in violation of the law that has been in existence for 20 years or more. The exception does not apply to a subdivision that has been enjoined pursuant enforcement action; for which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds; for which a lot owner was denied a building permit under section 4406, and record of the denial was recorded in the appropriate registry of deeds; or that has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds.

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

**Subdivision, Minor:** Any subdivision containing four lots or dwelling units or less and in which no street is proposed to be constructed.

**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, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

**Usable Open Space:** That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be ~~poorly drained~~ or very poorly drained, ~~have ledge outcroppings~~, or areas with slopes exceeding 10%.

## Article IV – Administrative Procedure

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than **one week in advance of the meeting**, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board's agenda at least ***10*** days in advance of a regularly scheduled meeting by contacting the Chairman or CEO. 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. However the Board shall take no action on any application not appearing on the Board's written agenda.

## Article V – Preapplication Meeting, Sketch Plan and Site Inspection

5.1 **Purpose.** The purpose of the preapplication meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

5.2 **Procedure.**

A. The applicant shall present the sketch plan and make a verbal presentation regarding the site and the proposed subdivision.

B. Following the applicants presentation, the Board may ask questions and make suggestions to be incorporated by the subdivider into the application.

C. The date of the on-site inspection is selected.

.3 **Submission.** The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the subdivider and the Board for site conditions suck as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by:

A. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.

B. A copy of that portion of the county Soil Survey covering the subdivision, showing the outline of the proposed subdivision.

5.4 **Contour Interval and On-Site Inspection.** Within thirty days of the preapplication meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision. 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 not conduct on-site inspections when there is more than one foot of snow on the ground.

5.5 **Rights not Vested.** The Preapplication meeting, the submittal or review of the sketch plan or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., §302.

5.6 **Establishment of File.** Following the preapplication meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting and application shall be maintained in the file.

## Article VI – Minor Subdivisions

6.1 **General**. The Board may require, where it deems necessary to make a determination regarding the criteria for approval from Title 30-A M.R.S.A, §4404, or the standards from Article XI of these regulations, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.

6.2 **Procedure.**

A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan at least 10 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Planning Board in care of the municipal office or delivered by hand to the municipal office. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. All applications for a Final Plan approval for a Minor Subdivision shall be accompanied by a non-refundable application fee of $300 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of $80 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account shall be drawn down by 75% the Board shall notify the applicant, and require that an additional $50 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require and additional $50 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision of the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the Final Plan. Failure to attend the meeting to present the Final Plan shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends.

D. Upon receipt of an application for Final Plan approval of a minor subdivision, the Board shall:

1. Issue a dated receipt to the applicant.
2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision includes or crosses the municipal boundary.

E. Within thirty days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

F. Upon a determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination. The Board shall determine whether to hold a public hearing on the Final Plan application.

G. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant.

H. Within thirty days from the public hearing or within sixty days of determining a complete application has been received, 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 findings of fact, and conclusions relative to the criteria contained Title 30-A M.R.S.A., §4404 and the standards in these regulations. If the Board finds that all criteria of the Statute and the standards of these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the criteria of the Statute or the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The reasons for any denial or conditions shall be stated in the records of the Board.

6.3 **Submissions.** The final plan application shall consist of the following items.

A. Application form.

B. Location Map. The Location Map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to located the subdivision within the municipality. The Location Map shall show:

1. Existing subdivision in the proximity of the proposed subdivision.
2. Locations and names of existing and proposed streets.
3. Boundaries and designations of zoning districts.
4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Final Plan submitted covers only a portion of the owner's entire contiguous holdings.

C. Final Plan. The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side of binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted. In addition, one copy of the Plan(s) reduced to a size of 8 ½ by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

D. The application for approval of a Minor Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
2. Verification of right, title, or interest in the property.
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.
4. A Copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, right-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. Indication of the type of sewage disposal to be used in the subdivision.
   a. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer District stating the district has the capacity to collect and treat the waste water shall be provided.
   b. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. Indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by public water supply, a written statement from the serving water district shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the district approving the design of the extension shall be submitted.
8. The date the Plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and adjoining property owners.
10. A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing of existing vegetation.
12. The location of all rivers, streams, and brooks within or adjacent to the proposed subdivision. If the proposed subdivision is in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
14. The zoning district in which the proposed subdivision is located and location of any zoning boundaries affecting the subdivision.
15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
16. The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and reproduced upon the ground. These lines shall be tied to reference points previously established.

17. The width and locations of any streets, public improvements or

18. The location of any open space to be preserved and a description of proposed improvements and its management.

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

20. If any portion of the subdivision is in a flood prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

21. The Board may require a hydro geologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and proposed use of shared or common subsurface waste water disposal systems

    The hydro geologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.

22. This item was deleted at time of revisions, November 21, 1996

23. 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 which may be affected, and recommended improvements to maintain the desired level of services on the affected streets.

24. A storm water management plan, prepared by a registered professional engineer in accordance with Urban Hydrology for Small Watershed, T.R. 55, 1986 edition, published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally or more applicable to the site. The Board may waiver submission of the storm water management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 10% of the area of the subdivision.

25. An erosion and sedimentation control plan prepared in accordance with the Environmental Quality Handbook, 1986 edition, published by the Maine Soil and Water Conservation Commission. The Board may waiver submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction and that no driveway or house construction will occur on sites with slopes steeper than 10%.

26. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries & Wildlife or within the Comprehensive Plan.

27. If the proposed subdivision is in the direct watershed of a great pond, a phosphorus control plan.

   a. For subdivisions which qualify for the simplified review procedures as described in Section 11.11.A.2, the plan shall indicate the location and dimensions of vegetative buffer strips or infiltration systems.
   b. For subdivision which does not qualify for the simplified review procedure as described in Section 11.11.A.2, the following shall be submitted.

      1. A phosphorus Impact Analysis and Control Plan conducted using the procedures set forth in Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, May, 1990 revisions.
      2. A long-term maintenance plan for all phosphorus control measures.
      3. The contour lines shown on the plan shall be at an interval of no less than five feet.
      4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

## Article VII – Preliminary Plan for Major Subdivision

7.1 **Procedure.**

A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a preliminary plan at least 10 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Planning Board in care of the municipal offices or delivered by hand to the municipal offices. Failure to do so shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.

B. All applications for a Final Plan approval for a Major Subdivision shall be accompanied by a non-refundable application fee of $300 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of $80 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application, if necessary. If the balance in this special account shall be drawn down by 75% the Board shall notify the applicant, and require that an additional $50 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision of the final plan application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

C. Upon Receipt of an application for Preliminary Plan approval of a major subdivision, the Board shall:

   1. Issue a dated receipt to the applicant.
   2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
   3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision includes or crosses the municipal boundary.

D. The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the preliminary plan application.

E. Within 30 days of the receipt of the Preliminary Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

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

G. If The Board decides to hold a public hearing, it shall hold the hearing within 30 days of determining it has received a complete applicant, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least 2 times, the date of the first publication to be at least 7 days prior to the hearing. A copy of the notice shall be mailed to the applicant.

H. Within 30 days from the public hearing or within 60 days of determining a complete applicant has been received, 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 findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

I. When granting approval to a preliminary plan, the Board shall 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 the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
   C. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the Final Plan.

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

## 7.2 Submissions.

The preliminary plan application shall consist of the following items.

A. **Application Form.**

B. **Location Map.** The Location Map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:

   1. Existing subdivisions in the proximity of the proposed subdivision.
   2. Locations and names of existing and proposed streets.
   3. Boundaries and designations of zoning districts.
   4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.

C. **Preliminary Plan.** The preliminary plan shall be submitted it 3 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 feet to the inch. Plans for subdivisions containing more than 100 acres to be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. In addition, one copy of the Plan(s) reduced to a size of 8 ½ by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than 7 days prior to the meeting.

D. The application for preliminary plan approval shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

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

   2. Verification of right, title, or interest in the property.

   3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.

4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, right-of-way, or other encumbrances currently affecting the property.

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

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

   A. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Sewer District stating the district has the capacity to collect and treat the waste water shall be provided.
   B. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

7. Indication of the type of water supply system(s) to be used in the subdivision.
   When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.

8. The date the Plan was prepared, north point, and graphic map scale.

9. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan and adjoining property owners.

10. A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.

11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted.

12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision.

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

14. The zoning district in which the proposed subdivision is located and location of any zoning boundaries affecting the subdivision.

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

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

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

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

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

20. The location of any open space to be preserved and a description of proposed ownership, improvement and management.

21. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn or other cover.

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

23. A hydro geologic assessment prepared by

   a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydro geologic Data for Significant Sand and Gravel Aquifers", by the Maine Geological Survey, 1985, Map No. _____; or
   b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

The Board may require a hydro geologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and proposed use of shared or common subsurface waste water disposal systems.

The hydro geologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1 below.

**24.** An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from Trip Generation Manual, 1987 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.

**25.** Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan.

**26.** If the proposed subdivision is in the direct watershed of a great pond, and qualifies for the simplified review procedure for phosphorus control, the plan shall indicate the locations and dimensions of vegetative buffer strips or infiltration systems and the application shall include a long-term maintenance plan for all phosphorus control measures.

## Article VIII – Final Plan for Major Subdivisions

8.1 **Procedure.**

**A.** Within six months after the approval of the Preliminary Plan, the subdivider shall submit an application for approval of the Final Plan at least 10 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Planning Board in care of the municipal offices or delivered by hand to the municipal officers. If the application for the Final Plan is not submitted within 6 months after Preliminary Plan approval, the Board shall require resubmission of the Preliminary Plan, except as stipulated below. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any changes required by the Board.

IF an applicant cannot submit the Final Plan within 6 months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and the municipal ordinances or regulations which may impact on the proposed development have not been amended.

**B.** All applications for Final Plan approval for a Major Subdivision shall be accompanied by an application fee of $25 per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.

**C.** Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing where applicable:

1. Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a Wastewater Discharge License is needed.
2. Maine Department of Human Services, if the subdivider proposes to provide a public water system,
3. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
4. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.

**D.** Upon receiving an application for Final Plan approval of a major subdivision, the Board shall issue a dated receipt to the applicant.

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

F. Within 30 days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. IF the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

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

H. If the Board decides to hold a public hearing, it shall hold the hearing within 30 days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least 2 times, the date of the first publication to be at least 7 days before the hearing. In addition, the notice of the hearing shall be posted in at least 3 prominent places within the municipality at least 7 days prior to the hearing.

I. The Board shall notify the Road Commissioner, School Superintendent, Police Chief, 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 Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

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

K. Within 30 days from the public hearing or within 60 days of receiving 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 findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A.M.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the Statute and the standards of these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the criteria of the Statute or the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2 **Submissions.**

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of 2 inches outside of the border line on the left side of the binding and a 1 inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable based transparencies, one to be record at the Registry of Deeds, the other to be filed at the Municipal Office, and 3 copies of the plan shall be submitted. The subdivider may, instead submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with 3 copies of the Final Plan. In addition, one copy of the Final Plan, reduced to a size of 8 ½ by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than 7 days prior to the meeting.

The Final Plan shall include or be accompanied by the following information.

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

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

C. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer District indicating the District has reviewed and approved the sewerage design shall be submitted.

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

1. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measurers deemed necessary.
2. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a will driller or a hydro geologist familiar with the area.

**E.** The date the Plan was prepared, north point, graphic map scale.

**F.** The names and addresses of the record owner, subdivider, and individual or company who prepared the plan.

**G.** The location of any zoning boundaries affecting the subdivision.

**H.** If different than those submitted with the Preliminary Plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.

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

**J.** The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a registered land surveyor.

**K.** Street plans, meeting the requirements of Section 12.2.B.2.

**L.** An erosion and sedimentation control plan prepared in accordance with the *Environmental Quality Handbook,* 1986 edition, published by the Maine Soil and Water Conservation Commission. The Board may waiver submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction and that no driveway or house construction will occur on sites with slopes steeper than 10%.

**M.** A storm water management plan, prepared by a registered professional engineer in accordance with *Urban Hydrology for Small Watersheds,* T.R. 55, 1986 edition, published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the storm water management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 10% of the area of the subdivision.

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

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

**P.** The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.

**Q.** IF any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorus control, the following shall be submitted or indicated on the plan.

1. A phosphorus Impact Analysis and Control Plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development,*

published by the Maine Department of Environmental Protection, revised May, 1990. The Analysis and Control Plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the *Technical Guide*.

2. A long-term maintenance plan for all phosphorus control measures.
3. The contour lines shown on the plan shall be at an interval of no less than 5 feet.
4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

**R.** A list of construction items, with cost estimates, that will be completed by the developer prior to the sale of lots, and evidence that the subdivider has financial commitments or resources to cover these costs.

**S.** A list of construction and maintenance items, with both capital and annual operating cost estimates that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not limited to:

- Schools, including busing
- Street maintenance and snow removal
- Police and fire protection
- Solid waste disposal
- Recreation facilities
- Storm water drainage
- Wastewater treatment
- Water supply

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

8.3 **Final Approval and Filing**

**A.** No plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan within the municipality.

**B.** Upon findings of fact and determination that all standards in Title 30-A. M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the CEO. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void.

**C.** At the time the Board grants Final Plan approval, it may permit the Plan to be divided into 2 or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district dost not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into 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. IF the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the Plan to be divided into sections to prevent classroom overcrowding. If the expansion, addition or purchase of the needed facilities is included In the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

**D.** No Changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article X. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

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

municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance an any such dedication area.

**F.** Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within 5 years of the date of approval and signing of the Plan 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 IX – Revisions to Approved Plans

9.1 **Procedure.** An applicant for a revision to a previously approved plan shall, at least 10 days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. IF the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

9.2 **Submissions.** The applicant shall submit a copy of the approved plan, as well as 3 copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and page or cabinet and sheet on which the original plan is recorded at the registry of deeds.

9.3 **Scope of Review.** The Board's scope of review shall be limited to those portions of the plan which are proposed to be changed.

## Article X – Inspections and Enforcement

10.1 **Inspection of Required Improvements.**

**A.** At least 5 days prior to commencing construction of required improvements, the subdivider or builder shall:

1. Notify the CEO in writing of the time when (s)he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications, requirements, and conditions of approval shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
2. Deposit with the Municipal Officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If, upon satisfactory completion of construction and cleanup, there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.

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

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

**D.** At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1st of each year during which construction was

done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

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

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

**G.** The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or their control is placed with a lot owners association.

10.2 **Violations and Enforcement.**

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

**B.** A person shall not 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.** A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the 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 plan approved 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.

**G.** Violations of he above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.

## Article XI – Performance Standards

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the Subdivision Statute (30-A M.R.S.A., §4404). In reviewing a proposed subdivision, the Board shall review the applicant for conformance with the following performance standards and make findings that each has been met prior to the approval of a Final Plan. Compliance with the Design Guidelines of Article XII shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the Design Guidelines of Article XII may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. IN all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

11.1 **Pollution.**

**A.** The proposed subdivision shall not discharge wastewater to water body without a license from the Maine Department of Environmental Protection.

**B.** Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface water bodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

11.2 **Sufficient Water.**

**A.** Water Supply.

1. Any subdivision within the area designated in the comprehensive plan for future water supply service shall make provisions for connection to the public system. When public water supply service will not be available at the time of construction of the subdivision, a "capped system" shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right of way of any street within the subdivision.

2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the subdivider. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the Fire Chief.

3. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or private community water system.

   **a.** Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
   **b.** Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.
   **c.** If a central water supply system is provided by the subdivider, the location and protection of the source, the design, construction and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231). The Comprehensive Planning Committee shall be notified by the Board of the location of a proposed community water supply for reference into the municipality's well head protection program.
   **d.** In areas where the comprehensive plan has identified the need for additional water storage capacity for fire fighting purposes, the subdivider shall provide adequate water storage facilities. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the Fire Chief. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and the Fire Chief has indicated in writing that alternate methods of fire protection are available.

**B.** Water Quality. Water supplies shall meet the primary drinking water standards contained in the Maine Rule Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the registry of deeds.

11.3 **Impact on existing water supplies.**

In meeting the standards of Section 11.2.A, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The subdivider shall be responsible for paying the costs of system improvements necessary to district's or company's system improvement plan as necessary to alleviate existing deficiencies.

11.4 **Soil Erosion.**

**A.** The proposed subdivision shall prevent soil erosion from entering water bodies, freshwater wetlands, and adjacent properties.

**B.** The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

C. 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.

11.5 **Traffic Conditions.**

A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:

1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
2. Avoid traffic congestion on any street; and
3. Provide safe and convenient circulation on public streets and within the subdivision.

B. More specifically, access and circulation shall also conform to the following standards.

1. The vehicular access to the subdivision shall be arranged to avoid traffic use of existing streets which the comprehensive plan has classified as residential access streets.

2. The street giving access to the subdivision and neighboring streets and intersections which can result in unreasonable congestion. No subdivision shall reduce a street's Level of Service to "e" or below, unless the comprehensive plan has indicated that Levels of Service "E" or "f" are acceptable for that street or intersection.

3. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.

4. Access ways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A warrant analysis to determine the need for a left-turn storage lane shall be done.

5. Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the municipality designated as growth areas in the comprehensive plan; or in non-residential subdivisions when such access will

   a. Facilitate fire protection services as approved by the Fire Chief; or
   b. Enable the public to travel between 2 existing or potential uses, generally open to the public, without need to travel upon a public street.

6. Street Names, Signs and Lighting. Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street names, traffic safety and control signs. Street lighting shall be installed as approved by the Board.

7. 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 on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

11.6 **Sewage Disposal.**

A. Public system.

1. Any subdivision within the area designated in the comprehensive plan for future public sewage disposal service shall be connected to the public system.

2. When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the subdivider.

3. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.

4. The sewer district shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer district or department.

**B.** Private Systems.

1. When a proposed subdivision is not within the area designated for public sewage disposal service in the comprehensive plan, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility with surface discharge.

2. The applicant shall submit evidence of site 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.

   a. The Site Evaluator shall certify, in writing, that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the Disposal Rules.
   b. 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.
   c. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

11.7 **Impact on municipality's ability to dispose of solid waste.**

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with it license. The Board may not require the alternate arrangements to exceed a period of 5 years.

11.8 **Impact on natural beauty, aesthetics, historic sites, wildlife habitat, natural areas or public access to the shoreline.**

The DIF&W has identified and designated areas as essential habitat for the conservation of endangered and threatened species, specifically four species to date. Maps of designated areas are published in an Atlas of Essential Wildlife Habitats of Maine's Endangers and Threatened Species. This atlas is intended to be updated annually. The Office has prepared a decision tree for determining when review is necessary for proposed projects. A copy of this can be found in the Appendix.

**A.** Preservation of natural beauty and aesthetics.

1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
2. Except in areas of the municipality designated by the comprehensive plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads.
3. The Board may require that the application include a landscape plan that will show the preservation of any existing trees larger than 24" inches diameter breast height, the replacement of trees and vegetation, and graded contours.
4. When a proposed subdivision street traverses open fields the plans shall include the planting of street trees.

**B.** Retention of Open Spaces and Natural or Historic Features.

1. If any portion of the subdivision is located within an area designated by the Comprehensive Plan as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Department of Economic and Community Development's Natural Heritage Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

3. If any portion of the subdivision is designated a site of historic or prehistoric importance, by the Comprehensive Plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the Plan.
4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics.
5. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
6. Reserved open space land may be dedicated to the municipality.
7. Where land within the subdivision is not suitable or is insufficient in amount, or where the applicant prefers, or when suggested by the comprehensive plan ,a payment in lieu of reservation may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that would have otherwise been required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

C. Preservation of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:
   a. habitat for species appearing on the official state or federal lists of endangered or threatened species;
   b. high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
   c. shorebird nesting, feeding and staging areas and seabird nesting islands;
   d. critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor, or
3. Other important habitat areas identified in the local Comprehensive Plan including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and the species it supports. A report prepared by a wildlife biologist, selected or approved by the Board shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

D. Any existing 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.

11.9 **Conformance with zoning ordinance and other land use ordinances.**

All lots shall meet the minimum dimensional requirements of the Zoning Ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance.

11.10 **Financial and technical capacity.**

A. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to

construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

B. Technical Ability.

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to be applicant.

11.11 **Impact on water quality or shoreline.**

**A. Phosphorus export.**

1. Any subdivision within the watershed of a great pond shall make provisions to limit the post development phosphorus export consistent with the standards contained in the following table, dependent on the lake in whose watershed the subdivision is located.

| Lake | Water Quality Category | Protection Level | Projected Development (%) | Watershed (50yr.) (areas)* | Allowable Phosphorus Export/Acre (lbs)* |
|---|---|---|---|---|---|
| X | Outstanding | High | X% | X acres | X lbs. |
| Y | Moderate/Stable | Medium | Y% | Y acres | Y lbs. |
| Z | Poor/Restorable | Low | Z& | Z acres | Z lbs. |

* If the proposed development is greater than 25% of the projected area of watershed development, the allowable phosphorus export per acre must be adjusted using Appendix F, or the DEP manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development,* revised May, 1990.

The Board shall keep an accurate record of permits issued by watershed and shall notify the comprehensive planning committee of the actual development rates at 5 year intervals, as the comprehensive plan is revised. The above table shall be amended as required by amendments to the comprehensive plan, reflecting changes in expected development rates.

2. Simplified Phosphorus Review.

Applicability. The simplified review may be used for a:

a. Proposed subdivision of 3 or 4 lots with less than 200 feet of new or upgraded street with accumulative driveway length not exceed 450 feet for a 3 lot subdivision or 600 feet for a 4 lot subdivision;
b. Proposed subdivision of 3 or 4 lots with no new upgraded street with a cumulative driveway length not to exceed 950 feet for 3 lot subdivisions or 1,100 feet for 4 lot subdivisions; or
c. Proposed subdivisions consisting of multi-family dwellings that have less than 20,000 square feet of disturbed area including building parking, driveway, lawn, subsurface waste water disposal systems, and infiltration areas, and new or upgraded streets not exceeding 200 linear feet.

A proposed subdivision which creates lots which could be further divided such that 5 or more lots may result shall be subject to the standard review procedures unless there are deed restrictions prohibiting future divisions of the lots.

3. Standard Review.

This section shall apply to proposed subdivisions which do not qualify for the simplified review. Phosphorus export from a proposed development shall be calculated according to the procedures in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development,* published by the Maine DEP., revised May, 1990. When a proposed subdivision creates lots which are more than twice the required minimum lot size and there are no deed restrictions proposed to prohibit future divisions, the developer shall either calculate phosphorus loading based on the maximum feasible number of lots, and shall design controls adequate to limit the resulting phosphorus loading, or shall reserve a portion of the permitted phosphorus export for future divisions.

4. Maintenance and Use Restrictions for Phosphorus Control Measures.

Provisions for monitoring, inspections, and maintenance of phosphorus control measures shall be included in the application.

**A. Vegetative Buffer Strips.**

Individual lot owners shall be required to maintain buffer areas on their individual lots in accordance with the following standards, to be specified in recorded deed restrictions and as notes on the plan. Where a vegetative buffer strip is to be owned in common by property owners in the subdivision, documentation establishing the lot owners association shall include the following standards.

**B. Wooden Buffers.**

Maintenance provisions for wooded buffers shall provide for either of the following two options.

1) No Disturbance.

Maintenance and use provisions for wooded buffer strips which are located on hydro logic soil group D soils and within 250 feet of the great pond or a tributary, or which are located on slopes over 20% shall include the following.

a) Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.
b) All existing undergrowth (vegetation less than 4 feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than 6 feet, is allowed through the buffer. This path shall not be a straight line to the great pond or tributary and shall remain stabilized.
c) Pruning of live tree branches that do not exceed 12 feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
d) No cutting is allowed of trees except for normal maintenance of dead, wind blown, or damaged trees.
e) Buffers shall not be used for all-terrain vehicle or vehicular traffic.

2) Limited Disturbance.

Maintenance and use provisions for other buffer strips may include the following.

a) There shall be no cleared openings and an evenly distributed stand of trees and other vegetation shall be maintained.
b) Activity within the buffer shall be conducted so as to minimize disturbance of existing forest floor, leaf litter and vegetation less than 4 feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.
c) Removal of vegetation less than 4 feet in height is limited to that necessary to create a winding foot path no wider than 6 six. This path shall not be a straight line to the great pond or a tributary. The path must remain stabilized.
d) Pruning of live tree branches that do not exceed 12 feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
e) Where the removal of storm damaged, diseased, unsafe, or dead trees result in a cleared opening being created, those openings shall be replanted with native trees at least 3 feet in height unless existing new tree growth is present.
f) Buffers shall not be used for al terrain vehicles or vehicular traffic.

**C. Non-wooded Buffers.**

1. Non-wooded buffers may be allowed to revert or to be planted to forest, in which case the standards above shall apply.
2. A buffer must maintain a dense, complete and vigorous cover of "non-lawn" vegetation which shall be mowed no more than once a year. Vegetation may include grass, other herbaceous species, shrubs and trees.
3. Activity within the buffer shall be conducted so as to prevent damage to vegetation and exposure of mineral soil. Burning of vegetation shall be prohibited.
4. Buffers shall not be used for all-terrain vehicles or other vehicular traffic.

**D. Infiltration Systems.**

Individual lot owners shall be responsible for maintenance of individual infiltration systems according to the standards specified in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development,* published by the Maine DEP, revised May, 1990. Requirements for maintenance shall be included in deed restrictions and as notes upon the plan. As an alternative to maintenance by individual lot owners, the applicant may designate some other entity to be contracted to take the responsibility, and shall include the above referenced maintenance provisions in any contractual agreement. Where infiltration systems serve more than one lot, a lot owners association shall be established and the above referenced maintenance provisions shall be referenced in the documentation establishing the association.

**E. Wet Ponds.**

A lot owners association shall be established to maintain wet ponds, unless the municipality or some other public entity agrees to assume inspection and maintenance duties. Documentation establishing the association or establishing an agreement with a public entity shall include the maintenance standards specified in the manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development,* published by the Maine DEP, revised May, 1990.

Cutting or removal of vegetation along water bodies shall not increase water temperature, result in shoreline erosion or sedimentation of water bodies.

11.12 **Impact on ground water quality or quantity.**

A. Ground Water Quality.

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

   a. A map showing the basic soils types.
   b. The depth to the water table at representative points throughout the subdivision.
   c. Drainage conditions throughout the subdivision.
   d. Date on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
   e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance.
   f. 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.

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

3. No subdivision shall increase any contaminant concentration in the ground water to more than ½ of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.

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

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

6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

B. Ground Water Quantity.

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

11.13 **Flood Plain Management.**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least 1 foot above the 100-year flood elevation. Such as restriction shall 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 statement 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 the plan.

11.14 **Identification of freshwater wetlands.**

Freshwater wetlands shall be identified in accordance with the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands,* published by the Federal Interagency Committee for Wetland Delineation, January, 1989.

11.15 **Storm water management.**

A. 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, under drains, and storm drains in conformance with the policies of the comprehensive plan. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains, except where retention basins are designed or ground water recharge is desirable.

B. Where a subdivision is traversed by a stream, river, or surface water drainage way, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

C. All components of the storm water management system shall be designed to limit peak discharge rates to predevelopment levels for the 2-year, 10-year- and the 25-year frequency, 24-hour duration storms, based on rainfall data fro m Portland, Maine. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.

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

E. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity.

11.16 **Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.**

**A.** All open space common land, facilities and property shall be owned by:

1. The owners of the lots or dwelling units by means of a lot-owner association;
2. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
3. The municipality.

**B.** Further subdivision of the common land or open space and its use for other than non-commercial recreation agriculture 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. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.

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

1. It shall not be used for future building lots; and
2. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.

**D.** The Final Plan application shall include the following:

1. Covenants for mandatory membership in the lot owners association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
2. Draft articles of incorporation of the proposed lot owners association as a not-for-profit corporation; and
3. Draft by-laws of the proposed lot owners association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

**E.** In combination, the documents referenced in paragraph D above shall provide for the following:

1. The homeowners association shall have the responsibility of maintaining the common property or facilities.
2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
3. The association shall have the power to place a lien on the property of members who fail pay dues or assessments.
4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners association or the developer.

## Article XII – Design Guidelines

This article is intended to provide an example of design guidelines, which if followed will result in meeting the appropriate performance standards of Article XI. Compliance with these guidelines shall be considered evidence of meeting those standards. Proposed subdivisions not in compliance with the design guidelines of this article may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standard(s) and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate performance to indicate all performance standards and statutory criteria for approval have been or will be met.

12.1 **Sufficient Water**

**A.** Well Construction.

1. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
2. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

**B.** Fire Protection.

1. Fire hydrants connected to a public water supply system shall be located no further than 500 feet from any building.
2. A minimum storage capacity of 10000 gallons shall be provided for a subdivision not served by a public water supply. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the Fire Chief. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice.
3. Hydrants or other provisions for drafting water shall be provided to the specifications of the Fire Department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches.
4. Where the dry hydrant or other water source is not within the right of way of a proposed or existing street, an easement to municipality shall be provided to allow access. A suitable access way to the hydrant or other water source shall be constructed.

12.2 **Traffic conditions.**

**A. Access Control.**

1. Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the arterial street.
2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
3. Subdivision Access Design for Subdivisions entering onto Arterial Streets. When the access to a subdivision is a street, the street design and construction standards of Section B below shall be met. Where there is a conflict between the standards in this section and the standards of Section B, the stricter or more stringent shall apply.

**A.** General.

Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the *Trip Generation Manual,* 1987 edition, published by the Institute of Transportation Engineers.

1. Low Volume Access: An access with 50 vehicle trips per day or less.
2. Medium Volume Access: Any access with more than 50 vehicle trips per day but less than 200 peak hour vehicle trips per day.
3. High Volume Access: Peak hour volume of 200 vehicle trips or greater.

**B.** Sight Distance.

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 10 feet behind the curb line or edge of shoulder, with the height of the eye 3 ½ feet, to the top of an object 4 ¼ feet above the pavement. The required sight distances are listed below for various posted speed limits.

1. Two Lane Roads.
   A minimum sight distance of 10 feet for each mile per hour of posted speed limit shall be maintained or provided.

2. Four Lane Roads.

The sight distance provided below are based on passenger cars exiting from accesses onto four lane roads are designed to enable exiting vehicles:

a. Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than 10 miles per hour, and
b. Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

| Operating Speed (mph) | Safe Sight Distance Left (ft) | Safe Sight Distance Right (ft) |
|---|---|---|
| 20 | 130 | 130 |
| 30 | 220 | 260 |
| 40 | 380 | 440 |
| 50 | 620 | 700 |

C. Vertical Alignment.

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3% or less for at least 75 feet. The maximum grade over the entire length shall be exceed 10 percent.

D. Low Volume Accesses.

1. Skew Angle. Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
2. Curb Radius. The curb radius shall be between 10 feet and 15 feet, with a preferred radius of 10 feet.
3. Access Width. The width of the access shall be between 20 feet and 24 feet, with a preferred width of 20 feet.

E. Medium Volume Accesses.

1. Skew Angle. Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
2. Curb Radius. Curb radii way vary depending if the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one-way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.
3. Width. On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.
4. Curb-Cut Width. On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

F. High Volume Accesses.

1. Skew Angle. High Volume Accesses shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.
2. Curb Radius. Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.
3. Curb Cut Width. Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet with a preferred width of 254 feet.
4. Entering and exiting accesses shall be separated by a raised median which shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.

5. Width. Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, with a preferred width of 20 feet.
6. Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization inlands.

**G.** Special Case Accesses.

Special Case Accesses are one-way or two-way drives serving medium or high volume uses with partial access (right turn only) permitted. These accesses are appropriate on roadway segments where there is a raised median and no median breaks are provided opposite the proposed access. These accesses are usually located along the approaches to major signalized intersections where a raised median may be provided to protect left-turning vehicles and separate opposing traffic flows.

1. Perpendicular Driveways.

   **a.** Curb Radii. Curb Radii shall be between 30 feet and 50 feet, with a preferred radius of 50 feet.
   **b.** Access Width. Access width shall be between 26 feet and 30 feet with a preferred width of 30 feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the one-way drive shall be between 15 feet and 24 feet with a preferred width of 20 feet.
   **c.** Curb-cut Width. The total curb-cut width shall be between 86 feet and 130 feet with a preferred width of 130 feet.
   **d.** Channelization island. The channelization island on two-way accesses shall be raised and curbed. Corner radii shall be 2 feet.

2. Skewed Accesses.

   **a.** Skew Angle. The Skew angle shall be between 45 degrees and 60 degrees, with a preferred angle of 45 degrees.
   **b.** Curb Radii. Curb Radii shall be between 30 and 50 feet on the obtuse side of the intersection, with a preferred radius of 50 feet. Curb radii shall be between 5 and 10 feet on the acute side of the intersection with a preferred radius of 5 feet.
   **c.** Access Width. Access width shall be between 15 and 24 feet with a preferred width of 20 feet. Where entering and exiting access meet, the width shall be between 24 and 30 feet with a preferred width of 30 feet.
   **d.** Curb-cut Width. The curb-cut width for each access shall be between 35 and 75 feet with a preferred width of 42 feet.

**H.** Access Location and Spacing.

1. Minimum Corner Clearance.
   Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed below based upon access or minor street volume and intersection type.

**MINIMUM STANDARDS FOR CORNER CLEARNACE**

| | Minimum Corner Clearance (feet) | Minimum Corner Clearance (feet) |
|---|---|---|
| **Access Type** | Intersection Signalized | Intersection Unsignalized |
| Low Volume | 150 | 50 |
| Medium Volume | 150 | 50 |
| High Volume | 500 | 250 |
| **Special Case** | | |
| Right turn in only | 50 | 50 |
| Right turn out only | 100 | 50 |
| Right turn in and out only | 100 | 50 |

Where the minimum standard for a fill access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on

either the major or minor streets; the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

2. Access Spacing.
Accesses and street intersections shall be separated from adjacent accesses, streets, and property lines as indicated in the table below, in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line.

**MINIMUM ACCESS SPACING**

| | Minimum Spacing to Property Line (Dpl)[1] | Minimum Spacing to Adjacent Medium | Access by Access Type [2] High w/o RT* | (Dsp)[3] High w/RT** | Special Case |
|---|---|---|---|---|---|
| **Access Type** | (feet) | (feet) | (feet) | (feet) | (feet) |
| Low Volume | 5 | | | | |
| Medium Volume | 10 | 75 | | | |
| High Volume w/o RT* | 75 | 75 | 150 | | |
| High Volume w/RT** | 75 | 75 | 250 | 500 | |
| Special Case | 10 | 75 | 75 | 75 | 40*** |

[1] Dpl measured from point of tangency to access to projection of property line on roadway edge.

[2] For two more accesses serving a single parcel, or from a proposed access from an existing access.

[3] Dsp measured from point of tangency of access to point of tangency of adjacent access.
* High volume access without right turn channelization
* High volume access with right turn channelization.
** Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

I. Number of Accesses.

The maximum number of accesses onto a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

1. No low volume traffic generator shall have more than one two-way access onto a single roadway.
2. No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.

J. Construction Materials/Paving

1. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.
2. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses regardless of access volume shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

**B. Street Design and Construction Standards.**

1. General Requirements.

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

b. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section. Of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one

inch equals no more than 50 feet. The vertical scale of the profile shall be one inch equals no more than 5 feet. The plans shall include the following information.

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

c. Upon receipt of plans for a proposed public street the Board shall forward one copy to the Municipal Officers, the Road Commissioner, and the Municipal Engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Municipal Engineer for review and comment.

d. Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner or the Maine Department of Transportation, as appropriate.

e. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

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

2. Street Design Standards.

a. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of Article XI.

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

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

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

e. Any subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least 2 street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.

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

| Type of Street | | | | | |
|---|---|---|---|---|---|
| **Description** | **Arterial** | **Collector** | **Minor** | **Private Right-of-Way** | **Industrial/ Commercial** |
| Minimum Right-of-Way Width | 80' | 50' | 50' | 50' | 60' |
| Minimum Traveled Way Width | 44' | 24' | 20' | 18' | 30' |
| Mini. Width of shoulders/each side | 5' | 3' | 3' | 3' | 9' |
| Sidewalk Width | 8' | 5' | 5' | N/A | 8' |
| Minimum Grade | .5% | .5% | .5% | N/A | .5% |
| Maximum Grade | 5% | 6% | 8% | 8% | 5% |
| **Minimum Centerline Radius** | | | | | |
| Without super elevation | 500' | 280' | 280' | 175' | 400' |
| With Super elevation | 350' | 175' | 175' | 110' | 300' |
| Roadway Crown ** | ¼' | ¼' | ¼' | *** | ¼' |
| Minimum angle of street/intersection **** | 90° | 90° | 75° | 75° | 90° |
| Maximum Grade within 75dt. of intersection | 3% | 3% | 3% | N/A | 3% |
| Minimum curb radii at intersection | 30' | 25' | 20' | N/A | 30' ***** |
| Minimum r/o/w radii at intersection | 20' | 10' | 10' | 10' | 20' |

* Maximum grade may be exceeded for a length of 100 feet or less.
** Roadway crown is per foot of lane width.
*** Gravel surfaces shall have a minimum crown of ¾ inch per foot of lane width.
**** Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.
***** Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

**g.** The centerline of the roadway shall be centerline of the right-of-way.

**h.** Dead End Streets. In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii. Property line: 60ft; outer edge of pavement: 50ft; inner edge of pavement: 30ft. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board may require the reservation of a 20ft easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a 50ft easement in line with the street to provide continuation of the road where future subdivision is possible.

i. Grades, Intersections, and Sight Distances.

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

**2.** All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

| Design Speed (mph) | 20 | 25 | 30 | 35 |
|---|---|---|---|---|
| Stopping Sight Distance (ft) | 125 | 150 | 200 | 250 |

Stopping sight distance shall be calculated with a height of eye at 3 ½ ft. and the height of object at ½ ft.

**3.** Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the from of the vehicle a minimum of 10ft from behind the curbline or edge of shoulder, with the height of the eye 3/5ft, to the top of an object 4/25ft above the pavement.

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

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

4. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of 125ft shall be maintained between centerlines of minor streets and 200ft between collectors or a collector and minor street.

**j.** Sidewalks. Sidewalks shall be installed within all subdivisions within areas designated as growth areas in the comprehensive plan. Where sidewalks exist adjacent to a proposed subdivision outside of growth areas, sidewalks shall be installed connecting to existing sidewalks. Where installed, sidewalks shall meet these minimum requirements.

1. Location. Sidewalks shall be located a minimum of 5ft from the curb facing or edge of shoulder if the street is not curbed.

2. Bituminous Sidewalks.
   a. The "sub base" aggregate course shall be no less than 12 inches thick after compaction.
   b. The hot bituminous pavement surface course shall be MDOT plan Mix Grade D constructed in 2 lifts, each no less than one inch after compaction.

3. Portland Cement Concrete Sidewalks.
   a. The "sub base" aggregate shall be no less than 12 inches thick after compaction.
   b. The Portland cement concrete shall be reinforced with 6 inch square, number 10 wire mesh and shall be no less than 4 inches thick.

**k.** Curbs shall be installed within all subdivisions within areas designated as growth areas in the comprehensive plan. Granite curbing shall be installed on a thoroughly compacted gravel base of 6 inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

3. Street Construction Standards.

**a.** The minimum thickness of material shall meet the specifications in the table below, after compaction.

| **Street Materials** | | | **Minimum Requirements** | | |
|---|---|---|---|---|---|
| | Arterial | Collector | Minor | Private Right-of-way | Industrial/Commercial |
| **Aggregate Sub base Course** | | | | | |
| (Max. Size stone 6") | | | | | |
| Without base gravel | 24" | 18" | 18" | 15" | 24" |
| With base gravel | 20" | 15" | 15" | 12" | 20" |
| **Crushed Aggregate Base Course** | | | | | |
| **(if necessary)** | 4" | 3" | 3" | 3" | 4" |
| **Hot Bituminous Pavement** | | | | | |
| Total Thickness | 3" | 3" | 3" | N/A | 4" |
| Surface Course | 1 ¼" | 1 ¼" | 1 ¼" | N/A | 1 1/4" |
| Base Course | 1 ¾" | 1 ¾" | 1 ¾" | N/A | 2 ¾" |
| Surface gravel | N/A | N/A | N/A | 3" | N/A |

**b.** Preparation.

1. Before any clearing has started on the right of way, the centerline and side lines of the new road shall be staked or flagged at 50 foot intervals.

2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.

3. All organic materials or other deleterious material shall be removed to a depth of 2ft below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of 2ft below the subgrade of the roadway. On soils which have been identified by the Municipal Engineer

as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of 2ft below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a MDOT approval stabilization geotextile may be used.

4. Except in a ledge cut, side slopes shall be no steeper than a slope of 3ft horizontal to 1ft vertical, and shall be graded, loamed, limed, fertilized, and seeded according the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than 4ft vertical to 1ft horizontal is permitted.

5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

c. Bases and Pavement.

1. Bases/Sub base.

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

| | Percentage by Weight Passing |
|---|---|
| Sieve Designation | Square Mesh Sieves |
| ¼ inch | 25-70% |
| No. 40 | 0-30% |
| No. 200 | 0-7% |

Aggregate for the sub-base contain no particles of rock exceeding 6inches in any dimension.

b. If the Aggregate Sub-base Course is found to be not fine-gradable because of larger stones, then a minimum of 3 inches of Aggregate Base Course shall be placed on top of the sub-base course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements.

| | Percentage of Weight Passing |
|---|---|
| Sieve Designation | Square Mesh Sieves |
| ½ inch | 45-70% |
| ¼ inch | 30-55% |
| No. 40 | 0-20% |
| No. 200 | 0-5% |

Aggregate for the base shall contain no particles of rock exceeding 2 inches in any dimension.

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

3. Pavements.

a. Minimum standards for the base layer of pavement shall be the MDOT specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to paved is not frozen or unreasonably wet.

b. Minimum standards for the surface layer of pavement shall be the MDOT specifications for plant mix grade C or D with an aggregate size no more than ¾ inch maximum and a liquid asphalt content between 5.8% and 7/0% by weight depending on aggregate

characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

4. Surface Gravel.
Private Rights of Ways need not be paved and may have a gravel surface. Surface gravel shall be placed on top of he aggregate sub-base, shall have no stones larger than 2 inches in size and meet the following gradation:

| | Percentage by Weight Passing |
|---|---|
| Sieve Designation | Square Mesh Sieves |
| 2 inch | 95-100% |
| ½ inch | 30-65% |
| No. 200 | 7-12% |

12.3 **Impact on natural beauty, aesthetics historic sites, wildlife habitat, rare natural areas or public access to the shoreline.**

A. Preservation of natural beauty and aesthetics.

1. Unless located in areas designated as a growth area in the comprehensive plan, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than 50ft. in width along all existing public roads. The buffer may be broken only for driveways and streets.

2. Unless located in areas designated as a growth area in the comprehensive plan, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.

3. When a proposed subdivision contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50ft vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.

4. When a proposed subdivision street traverses open fields, the plans shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than 50ft. apart.

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

1. The subdivision shall reserve between 5 and 10% of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision and the policies of the plan for meeting those needs; the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.

2. Subdivisions with an average density of more than 3 dwelling units per acre shall provide no less than 50%of the open space as usable open space to be improved for ball fields, playgrounds or other similar active recreation facility. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200ft., and have no major dimensions of less than 200ft.

3. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25ft of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc., where necessary and appropriate.

C. Preservation of Significant Wildlife Habitat.

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account may site specific variables. Applicants proposing to subdivide land within or adjacent to identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Board.

1. Protection of Significant Wildlife and Important Habitat areas.

   a. There shall be no timber harvesting within the strip of land extending 75ft. inland from the normal high-water line of a water body except, to remove safety hazards, when the following habitat areas fall under the jurisdiction of the state's Mandatory Shoreland Zoning Act:
      i. habitat for species appearing on the official state or federal lists of endangered or threatened species;
      ii. shorebird nesting, feeding and staging areas and seabird nesting islands;
      iii. high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
      iv. critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
      v. other important habitat areas identified in the local comprehensive plan including wildlife concentration areas.

   b. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

   c. There shall be no cutting of vegetation within the strip of land extending 75ft. inland from the normal high-water line of a shoreland, except to remove safety hazards, when the following habitat areas fall under the jurisdiction of the state's Mandatory Shoreland Zoning Act:

      i. habitat for species appearing on the official state or federal lists of endangered or threatened species;
      ii. shorebird nesting, feeding and staging areas and seabird nesting islands;
      iii. high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
      iv. critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
      v. other important habitat areas identified in the local Comprehensive Plan including coastal wildlife concentration areas.

   d. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

2. Protection of wetlands rated high or moderate for waterfowl.

   Within 75ft. of upland edge of a wetland designated as high or moderate value for waterfowl habitat by the Department of IF&W or in the Comprehensive Plan, there shall be no cutting of vegetation, except to remove safety hazards. Any clearing of vegetation that takes place in these areas shall be limited to that which is necessary for uses expressly authorized in the district. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

3. Protection of Deer Wintering Areas.

   The report prepared by the wildlife biologist, selected or approved by the Board, shall include a management plan for deer wintering areas. The management plan shall provide for approximately 50% of the area to be maintained in mature softwoods.

4. Protection of important shoreland areas.

   a. Except as provided elsewhere in this section, within all areas subject to the state mandated 250ft. shoreland zone.

      i. Tree removal shall be limited to no more than 40% of the volume of trees 4inches or more in diameter measured at 4 ½ ft. above the ground level on any lot in any 10 year period.
      ii. Harvesting operations shall not create single clear-cut openings greater than 10,000 square feet in the forest canopy. Where such openings exceed 5,000 square feet they shall be at

least 100ft. apart. Such clear-cut openings shall be included in the calculation of total volume removal. Fore the purposes of these guidelines volume may be considered to be equivalent to basal area.

iii. In no event shall cleared openings for development, including but no limited to, principal and accessory structures, driveways, and sewage disposal areas, exceed in the aggregate 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed.

**b.** These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

If other important wildlife habitat has been identified by the Department of IF&W or the comprehensive plan, the restrictions on activities in and around these areas shall be reviewed by the Department of IF&W and their comments presented in writing to the Board.

12.4 **Storm Water Management Design Guidelines.**

**A.** Drainage easements for existing water-courses or proposed drainage ways shall be provided at least 30ft. wide, conforming substantially with the lines of existing natural drainage.

**B.** The minimum pipe size for any storm drainage pipe shall be 15inches for driveway entrances and 18inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus 2ft. Pipe shall be bedded in a fine granular material, containing no stones larger than 3inches, lumps of clay, or organic matter, reaching a minimum of 6inches below the bottom of the pipe extending to 6inches above the top of pipe.

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

**D.** Storm Drainage Construction Standards.

**1.** Materials.

**a.** Storm drainage pipes shall conform to the requirements of MDOT materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.

**b.** Where the storm drainage pipe is to be covered by 10ft. or more of fill material, pipe material with a 50 year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinylchloride (PVC) pipe, and corrugated aluminum alloy pipe.

**c.** Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.

**2.** Pipe Gauges.

Metallic storm drainage pipe shall meet the following thickness requirements depending on pipe diameter.

| | **Material** | |
|---|---|---|
| | **Galvanized CMP** | |
| | **Aluminum/Zinc Coated CMP** | **Aluminum Coated CMP** |
| **Inside Diameter** | **Corrugated Aluminum Alloy** | **Polymer Coated CMP** |
| 15" to 24" | 14 ga. | 16 ga. |
| 30" to 36" | 12 ga. | 14 ga. |
| 42" to 54" | 10 ga. | 12 ga. |
| 60" to 72" | 8 ga. | 10 ga. |

**3.** Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Engineer.

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

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

12.5 **Impact on water quality or shoreline.**

**A.** Phosphorous Export.

**1.** When a proposed subdivision is within the direct watershed of a great pond and qualifies for the simplified review procedure, buffers strips shall be provided in accordance with the following tables. Buffer strips shall be provided on the downhill side of all lots, along all tributaries to great ponds and along the great pond. The minimum required width of buffer strips are designated in the table(s) below and depend on the watershed in which the proposed subdivision is located, the size of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot. Lake Watershed:
Hypothetical Pond
Phosphorus Standard 0.07 – 0.08 lbs./acre

| | | | |
|---|---|---|---|
| 2 – 2.00 Acres | A | 25 | 25 |
| | B | 25 | 25 |
| | C | 25 | 50 |
| | D | 25 | 200 |

H.S.G. is the Hydrologic Soil Group
All lots 3 acres and larger shall provide a minimum 25 foot buffer.

**B.** Shoreland Buffer Strips.

Within a strip of land extending 100ft inland from the normal high-water line of a great pond or any tributary to a great pond, and 75ft from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots which include any such land shall contain the following restrictions:

**1.** There shall be no cleared opening greater than 250sq.ft. in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed 10ft in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to 6ft.

**2.** Selective cutting of trees within the buffer strip is permitted providing that a well distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of tress 4inches or more in diameter, measured at 4 1/2 ft. above ground level may be removed in any 10 year period.

**3.** In order to protect water quality and wildlife habitat, adjacent to great ponds, and tributaries to great ponds, existing vegetation under 3ft. in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.

**4.** Pruning of tree branches, on the bottom 1/3 of the tree is permitted.

12.6 **Blocks.**
Where street lengths exceed 1,000ft. between intersection s with other streets, the Board may require a utility/pedestrian easement, at least 20ft in width, to provide for underground utility crossings and/or a pedestrian pathway of at least 5ft in width constructed in accordance with design standards in Section 12.3B.2J. Maintenance obligations of the easement shall be included in the written description of the easement.

12.7 **Lots.**

**A.** Whenever possible, side lot lines shall be perpendicular to the street.

**B.** The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of these regulations and conditions placed on the original approval.

C. If a lot on one side of a stream, tidal water, 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, tidal water, or road to meet the minimum lot size.

D. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.

E. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board.

12.8 **Utilities.**

Utilities serving subdivisions in areas designated by the comprehensive plan as growth areas shall be installed underground. Utilities serving lots with a street frontage of 125ft or less shall be installed underground. The Board may approve overhead utilities when the applicant proposes reserved affordable housing and provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the targets for affordable housing in the comprehensive plan.

12.9 **Monuments.**

A. Stone or pre-cast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750ft. apart along street lines without curves or intersections.

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

C. Stone or concrete monuments shall be a minimum of 4inches sq. at the top and 4ft. in length, and set in the ground at final grade level. After they are set, drill holes, ½ inch deep shall locate the point or points described above.

D. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

12.10 **Cluster Developments.**

A. **Purpose.** The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Not withstanding provisions of the zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances.

B. **Application Procedure.** The Planning Board may allow lots within subdivisions to be reduced in area and width below the minimum normally required by this ordinance in return for open space where the Board determines that the benefits of the cluster approach will decrease development costs, increase recreational opportunities or prevent the loss of natural features without increasing the net density of the development. Two sketch plans shall be submitted with one layout as a standard subdivision and the second as a cluster development indicating open space and significant natural features. Each lot in the standards subdivision shall meet the minimum lot size and lot width requirements of this ordinance, and if not serviced by public sewer have an area suitable for subsurface wastewater disposal according to the Maine Subsurface Wastewater Disposal Rules. The number of build able lots or dwelling units in the cluster development shall in no case exceed the number of lots or dwelling units in the standard subdivision.

Estimated costs of infrastructure development (roads, utilities, etc.) shall accompany the plan. The written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to moderate-to-high value wildlife and waterfowl habitats,

important agriculture soils, moderate-to-high yield aquifers and important natural or historic sites identified by the Comprehensive Plan as worthy of preservation. The statement shall also compare the impacts upon the municipality from each plan. Examples of impacts are municipal cost for roads, school bussing, solid waste removal, utility efficiencies, recreational opportunities, protection of flood water storage areas, environmental impacts on sensitive lands caused by construction activities, underground utilities, reclamation of land and provision of land for conservation use.

Within 10 days of receiving the application, the Board shall invite comments on the application from the Conservation Commission, the Recreation Commission, other appropriate town agencies and abutters. Within 30 days of receiving the application, the Board shall determine whether to allow the subdivision to be developed in accordance with the cluster standards of this section.

**C. Basic Requirements for Cluster Developments.**

1. Cluster developments shall meet all requirements of these regulations.
2. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.
3. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
   a. 15% of the area of the lot to account for roads and parking.
   b. 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.
   c. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
   d. Portions o the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
      i. Slopes greater than 20%
      ii. Organic soils
      iii. Wetland soils
      iv. 50% of the poorly drained soils
      v. Coastal sand dunes.
   e. Portions of the lot subject to rights of way.
   f. Portions of the lot located in the resource protection zone.
   g. Portions of the lot covered by surface waters.
   h. Portions of the lot utilized for storm water management facilities.
4. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage shall be divided by the minimum lot size required by the zoning ordinance. No building shall be sited on slopes steeper than 25%, within 100ft on any water body or wetland, or on soil classified as being very poorly drained.
5. Unless a community sewage collection and treatment system is provided, no lot shall be smaller in area than 20,000 sq. ft.
6. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required my the zoning ordinance. No less than 30% of the reserved open space shall be usable open space.
7. Every building lot that is reduced in area below the amount normally required shall be within 1000ft of the common land.
8. The distance between buildings shall not be less than 20ft.
9. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
10. Shore frontage shall not be reduced below the minimum normally required by the zoning ordinance.

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

## Article XIII – Performance Guarantees

13.1 **Types of Guarantees.**

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

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

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

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

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

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Municipal Engineer, Road Commissioner, Municipal Officer, and/or Municipal Attorney.

13.2 **Contents of Guarantee.**

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

13.3 **Escrow Account.**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

13.4 **Performance Bond.**

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

13.4 **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.

13.6 **Conditional Agreement.**

The Board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that no more than 4 lots may be sold or built upon until either:

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

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

Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 13.8.

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

13.8 **Release of guarantee.**
Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Municipal Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design improvements for which the release is requested.

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

13.10 **Improvements Guaranteed.**
Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

## Article XIV – Waivers

14.1 Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waiver portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the Subdivision Statute have been or will be met, 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 Comprehensive Plan, the Zoning Ordinance, or these regulations.

14.2 Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the Subdivision Statute have been or will be met by the proposed subdivision.

14.3 In granting waivers to any of these regulations in accordance with Section 14.1 and 14.2, the Board shall require such conditions as will assure the purposes of these regulations are met.

14.4 Waivers to be shown on Final Plan. When the Board grants a waiver to any of the improvements required by these regulations, the Final Plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

## Article XV – Appeals

15.1 An aggrieved party may appeal any decision of the Board under these regulations to _____County Superior Court, within 30 days of the date of the decision.