

# **TOWN OF OGUNQUIT**

## ***SUBDIVISION REGULATIONS***

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**Amended April 2, 1988**

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**Amended June 11, 2002**

**Repealed and Replaced, with Amendments,  
as Subdivision Regulations, May 24, 2004**

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## **ARTICLE 1 PURPOSE AND STATUTORY REVIEW CRITERIA**

- 1.1** The purpose of these standards shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. When reviewing any subdivision as defined in Article 3 of this regulation for approval, the Planning Board shall consider, but not be limited to, the following criteria and before granting approval, shall determine that the proposed project:
- 1.1.1 Will not result in undue water or air pollution. In making this determination, it shall at least consider:
    - a) The elevation of the land above sea level and its relation to the flood plains;
    - b) The nature of soils and subsoils and their ability to adequately support waste disposal;
    - c) The slope of the land and its effect on effluents; and
    - d) The applicable State and local health and water resources rules and regulations;
  - 1.1.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision;
  - 1.1.3 Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
  - 1.1.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition results;
  - 1.1.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
  - 1.1.6 Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
  - 1.1.7 Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste if municipal services are to be utilized;
  - 1.1.8 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
  - 1.1.9 Is in conformance with a duly adopted subdivision or other applicable project regulation or ordinance, comprehensive plan, development plan or land use plan, if any;. In making this determination, the Planning Board may interpret these ordinances and plans;
  - 1.1.10 Whenever situated, in whole or in part, within 250 feet of any wetland or great pond, as defined in Title 38, sections 435 through 490, or within 250 feet of tidal waters, will not

adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water; and

- 1.1.11 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water
- 1.1.12 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- 1.1.13 Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- 1.1.14 All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- 1.1.15 Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
- 1.1.16 The proposed subdivision will provide for adequate storm water management;
- 1.1.17 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;
- 1.1.18 For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- 1.1.19 The developer has adequate financial and technical capacity to meet the standards of this section.

## **ARTICLE 2 AUTHORITY AND ADMINISTRATION**

### **2.1 Authority**

- 2.1.1 These standards have been prepared in accordance with the provisions of Title 30-A, section 4401 through 4407.
- 2.1.2 These standards shall be known and may be cited as “Subdivision Regulations of the Town of Ogunquit, Maine.”

### **2.2 Administration**

- 2.2.1 The Planning Board of the Town of Ogunquit, hereinafter called the Board, shall administer these standards. The Planning Board may call upon the Code Enforcement Officer or the Town Planner for assistance in administering these standards. (Amended June 11, 2002)
- 2.2.2 The provisions of these standards shall pertain to the creation or the amendment of all the subdivisions as herein defined within the boundaries of the Town of Ogunquit.

## **ARTICLE 3 DEFINITIONS**

**3.1** Definitions found in a standard Webster's Dictionary of the current decade will apply to all words not already defined herein or in Ogunquit's Zoning Ordinance. Words used in the present tense include the future; plural includes the singular; the word "lot" includes the word "plot"; the word "building" includes the word "structure", the word "shall" is always mandatory; "occupied" or "used" shall be considered as though followed by the words "or intended, arranged or designed to be used/occupied". The terms "Code" and "Ordinance" are to be considered interchangeable.

### **3.1.1 *Abutting***

Having a common border with, or being separated from such a common border by an alley, easement, street, road, public way or private way.

### **3.1.2 *Comprehensive Plan***

A document or interrelated documents and maps, as defined by Title 30-A M.R.S.A sec. 4301.

### **3.1.3 *Contiguous Lot***

For the purposes of these regulations, a lot shall be considered to be contiguous if either or both of the following conditions exist:

- a) The lots adjoin or are conterminous at any point or line, or
- b) If two adjacent lots are separated at any point by a water body less than forty (40) feet wide.

### **3.1.4 *Developed Area***

Any area on which a site improvement or change is made, to include buildings, landscape, parking area, etc..

### **3.1.5 *Essential Services***

The construction, alteration or maintenance of gas, electrical, communication facilities, steam, fuel or water transmission or distribution systems, collection, supply or disposal systems. Such systems may include towers, poles, wires, mains, drains, sewers, pipes, conduits, cables, fire alarm and police call boxes, traffic signals, hydrants and similar accessories, but shall not include buildings which are necessary for the furnishing of such services.

### **3.1.6 *Final Plans of Subdivision***

The final drawings on which the developer's plan of a subdivision is presented to the Planning Board for approval and which, if approved, may be filed for record with the Municipal Clerk and county.

### **3.1.7 *Flood, Base***

Means the Flood having a one (1%) percent chance of being equaled or exceeded in any given year. (Adopted May 10, 1983)

### **3.1.8 *High Intensity Soil Survey***

A map prepared by a Certified Soil Scientist, identifying the soil types down to one-eighth (1/8<sup>th</sup>) acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. 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.

**3.1.9 High Water Mark, Normal**

a) **Coastal Waters**

That line on the shore of tidal waters reached by the shoreward limit of the rise of the median tides between the spring and the neap.

b) **Inland Waters**

That line on the shore and banks of non-tidal waters which is apparent because of the contiguous different character of the soil or vegetation due to the prolonged action of the water. In places where the shore or bank cannot be easily determined (rock slides, ledges, rapidly eroding or slumping banks), the normal high water mark shall be estimated from places where it can be determined by the above method.

**3.1.10 Industrial Park or Development**

An area zoned and planned for varied industrial uses and developed and managed as a unit, usually with provisions for common services for the users.

**3.1.11 Living Unit**

This term applies to residential dwelling units and shall include single, duplex and multi-family dwellings, apartments, efficiencies and condominiums. Each individual unit which functions as a separate dwelling quarters shall be a dwelling unit.

**3.1.12 Person**

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

**3.1.13 Planning Board**

The Planning Board of the municipality created pursuant to Article 6 of the Town of Ogunquit Zoning Ordinance, and the laws of the State of Maine, as amended.

**3.1.14 Preliminary Plan of Subdivision**

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

**3.1.15 Resubdivision**

The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

**3.1.16 Street**

The word “street” means and includes such public or private ways as alleys, avenues, boulevards, highways, roads, streets and other right-of –ways. The term “street” shall also apply to areas on plans designated as “streets”, etc..

**3.1.17 *Subdivision***

The word “Subdivision” shall be defined as in Title 30-A M.R.S.A sec. 4401, subpart 4. (See Appendix for a copy of the Statutory Definition.)

For the purposes of this regulation, the word “subdivision” shall not include condominium conversions of existing projects pursuant to the Condominium Act, Title 33 M.R.S.A. sec. 1601-101, *et seq.*, or other such functional divisions of existing projects allowable under law.

**3.1.18 *Structure or Structures, New***

“New structure or structures” includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter.

**3.1.19 *Tract or Parcel of Land***

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

## **ARTICLE 4 ADMINISTRATIVE PROCEDURE**

### **4.1 Purpose**

4.1.1 The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.

### **4.2 Agenda**

4.2.1 In order to avoid unnecessary delays in processing applications for subdivision review, the Land Use Office, in consultation with the Planning Board Chair, shall prepare an agenda for each regularly scheduled meeting.

4.2.2 Applicants shall request to be placed on the Planning Board's agenda through the Land Use Office.

4.2.3 Applicants who attend a meeting, but who are not on the Planning 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.

### **4.3 Order of Business**

The Planning Board shall process and review each applicant in a similar and equitable manner. In order to accomplish this, the Board shall follow the procedures set forth in the following Articles, for each stage of the review process.

## **ARTICLE 5 SKETCH PLAN**

### **5.1 Sketch Plan Purpose.**

The purpose of the sketch plan 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 Sketch Plan Meeting Procedure**

- A. The applicant shall present the Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions and make suggestions to be incorporated by the applicant into the subsequent application.
- C. The date of the on-site inspection is selected.

### **5.3 Sketch Plan Submissions**

Fifteen copies of the sketch plan and all supporting materials must be submitted 14 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots 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, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's tax map(s) on which the land is located. The Sketch Plan shall be accompanied by:

- 5.3.1. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision; and
- 5.3.2. A copy of that portion of the county soil survey covering the proposed subdivision, showing the outline of the proposed development.
- 5.3.3. A completed sketch plan application form and a fee to be set by the Selectmen.
- 5.3.4. In addition, the applicant shall pay a fee of \$1500 to be deposited in a special account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review the application. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that an additional \$750 be deposited by the applicant. The Board shall continue to notify the applicant and require an

additional \$750 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 on the final plan application by the Board shall be returned to the applicant

#### **5.4 On-Site Inspection**

Within thirty days of the sketch plan 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. The applicant shall place “flagging” at the centerline of any proposed streets or drives, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. If the proposed project includes buildings, the approximate corners of building footprints shall be “flagged.” The Board may choose not to conduct on-site inspections when there is inclement weather or snow on the ground. On-site inspections shall be noticed as required by 1 M.R.S.A. §§401-410, and the public shall be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

#### **5.5 Follow-up and Acceptance of Sketch Plan**

At its next meeting following the on-site inspection, the board should discuss the inspection and note various conditions or features found. If the Board finds the sketch plan acceptable, it should then write a letter to the applicant highlighting its findings from the inspection, giving any general guidance to the applicant regarding the future submittal of a preliminary plan application, and informing the applicant of the contour interval to be required for the preliminary plan application. If the Board finds the sketch plan unacceptable, it should indicate its decision to the applicant in writing, and the applicant shall be required to submit a new, modified sketch plan application if it wishes to proceed with the proposed project.

#### **5.6 Rights not Vested.**

The sketch plan 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.

#### **5.7 Establishment of File.**

Following the sketch plan meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the sketch plan meeting and subsequent preliminary and final subdivision plan applications shall be maintained in the file.

## ARTICLE 6 PRELIMINARY PLAN FOR SUBDIVISION

### 6.1 Procedure

- 6.1.1 Within six (6) months after acceptance of the sketch plan by the Planning Board, the developer shall submit an application for a Preliminary Plan to the Land Use Office. Fifteen copies of the preliminary plan and all supporting materials must be submitted at least 14 days prior to a regularly scheduled Planning Board meeting in order to be placed on the Board's agenda. 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 as well as any recommendations made by the Board.
- 6.1.2 The application for the preliminary plan shall be accompanied by a fee to be set by the Selectmen. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising. The Board may continue to require replenishment of the escrowed funds for consulting fees as authorized in sect 5.3.4, so that it may continue to employ consultants during the preliminary plan application review, if necessary.
- 6.1.3 The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Planning Board to present the preliminary plan application. Failure to attend the meeting to present the preliminary plan application shall result in a delay of the Board's review of the plan until the next meeting at which the applicant is present.
- 6.1.4 At least 11 days prior to the Planning Board meeting at which an application for preliminary plan of a subdivision is initially presented, the Land Use Office 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 Town Clerk and the Planning Board of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- 6.1.5 Within thirty 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.
- 6.1.6 Upon determination that a complete application has been submitted for review, the Board shall determine whether or not to hold a public hearing on the preliminary plan application. In the event that the Planning Board determines to hold a public hearing on an application for approval of a subdivision, it shall hold such hearing within thirty (30) days of receipt by it of a completed application and shall cause notice of the date, time and place of such hearing to be published in a newspaper of local circulation, at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. A copy of the notice shall be sent by first class mail to abutting landowners and to the applicant, at least ten (10) days prior

to the hearing. The Land Use Office shall prepare a written certification of the date, time, and location when and where notices were mailed. In addition, the notice of the hearing shall be posted in at least three prominent public places within the municipality at least ten (10) days prior to the hearing.

- 6.1.7 The Land Use Office shall notify the director of public works, police chief, and fire chief of the proposed subdivision application. The Board shall request that these officials review the application and comment upon the adequacy of their department's existing capital facilities to service the proposed development. The Land Use Office shall also notify the Conservation Commission of the application, request comments on whether the application meets the standards of Town ordinances with respect to environmental matters, and invite the Commission to participate in any scheduled hearings.
- 6.1.8 Within thirty (30) days of a public hearing or within sixty (60) days of receiving a completed application, if no hearing is held, or within such other time limit as may be otherwise mutually agreed to, the Planning Board shall take action to give preliminary approval, with or without modifications or disapprove such preliminary plan. The reasons for any modifications required or the grounds for disapproval shall be stated upon the record of the Planning Board and shall be issued in writing to the applicant.
- 6.1.9 When granting approval of a preliminary plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
  - 6.1.9.1 The specific changes which it will require in the final plan;
  - 6.1.9.2 The character and extent of the required improvements for which waivers of submissions or review standards may have been requested and which, in its opinion, may be waived without jeopardy to the public health, safety and general welfare;
  - 6.1.9.3 The construction items for which cost estimates and performance guarantees will be required as a prerequisite to the approval of the final plan, pursuant to section 10.9.
- 6.1.10 Approval of a preliminary plan shall not constitute approval of the final plan, but rather it shall be deemed an expression of approval of the design submitted on the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the final plan, the Planning Board may require additional changes as a result of further study of the project in final form or as a result of new information obtained at any public hearings.

## **6.2 Submissions**

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12. Fifteen copies of all materials shall be delivered to the Land Use Office, at least fourteen days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional

information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

- 6.2.1 Application & Checklist.** Completed Preliminary Plan Application Form and Preliminary Plan Application Submissions Checklist
- 6.2.2. 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:
  - 6.2.2.1. Existing subdivisions in the proximity of the proposed subdivision.
  - 6.2.2.2. Locations and names of existing and proposed streets.
  - 6.2.2.3. Boundaries and designations of zoning districts.
  - 6.2.2.4. 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.
- 6.2.3 Preliminary Plan.** The preliminary plan drawing sets may be printed or reproduced on paper, and shall show all dimensions in feet or decimals of a foot. The preliminary plan shall be 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.
- 6.2.4 Identification of Project.** Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- 6.2.5 Right, Title or Interest.** Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
- 6.2.6 Survey.** 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 entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30A M.R.S.A. section 4401.
- 6.2.7 Existing Deed.** A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- 6.2.8 Proposed Deed Restrictions.** A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- 6.2.9 Proposed Sewage Disposal.** An indication of the type of sewage disposal to be used in the subdivision.
  - 6.2.9.1. 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.

6.2.9.2. 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.

**6.2.10 Proposed Water Supply.** An 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.

**6.2.11 Plan Details. The following information shall be included on the plan or plans:**

- 6.2.11.1 The date the plan was prepared, north point, and graphic map scale.
- 6.2.11.2 The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
- 6.2.11.3 A high intensity soil survey by a Certified Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
- 6.2.11.4 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.
- 6.2.11.5. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
- 6.2.11.6. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
- 6.2.11.7. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
- 6.2.11.8. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 6.2.11.9. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
- 6.2.11.10. 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.
- 6.2.11.12. The proposed lot lines with approximate dimensions and lot areas.
- 6.2.11.13. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- 6.2.11.14. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
- 6.2.11.15. The area on each lot where existing forest cover will be permitted to be removed

and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.

6.2.11.16. 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.

**6.2.12. Hydrogeologic Assessment.** A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and

- a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on the 1:24,000 scale "Significant Aquifer Maps," by the Maine Geological Survey; or
- b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

The Board may require a hydrogeologic 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; or the proposed use of shared or common subsurface waste water disposal systems.

**6.2.13. Estimate of Traffic Generated.** 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 the most recent available edition of the *Trip Generation Manual*, 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.

**6.2.14. Traffic Impact Analysis.** For subdivisions involving 40 or more parking spaces or projected to generate more than 200 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

**6.2.15. Wildlife Habitat Areas.** 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. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Program the plan shall indicate appropriate measures for the preservation of the values, which qualify the site for such designation.

**6.2.16. Historic Sites.** All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan as sensitive or likely to contain such sites.



## **ARTICLE 7 FINAL PLAN FOR SUBDIVISION**

**7.1 Procedure.** The following are the procedures for the final plan application for a subdivision:

- 7.1.1 Within six months after the approval of the preliminary plan, the applicant shall submit fifteen copies of an application for approval of the final plan with all supporting materials to the Land Use Office. Application copies must be submitted at least fourteen days prior to a regularly scheduled meeting of the Board, in order to be placed on the Board's agenda. If the application for the final plan is not submitted within six 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.
- 7.1.2 If an applicant cannot submit the final plan within six 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 that municipal ordinances or regulations which may impact on the proposed development have not been amended.
- 7.1.3 All applications for final plan approval for a subdivision shall be accompanied by an application fee set by the Board of Selectmen. 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. The Board may continue to require replenishment of the escrowed funds for consulting fees as authorized in sect 5.3.4, so that it may continue to employ consultants during the final plan application review, if necessary.
- 7.1.4 Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
  - 7.1.4.1. Maine Department of Environmental Protection, under the Site Location of Development Act.
  - 7.1.4.2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a waste water discharge license is needed.
  - 7.1.4.3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
  - 7.1.4.4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
  - 7.1.4.5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
  - 7.1.4.6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit

If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.

- 7.1.5. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation commission prior to submitting the final plan application.
- 7.1.6. The applicant, or the applicant's duly authorized representative, shall attend the meeting of the Board to discuss the final plan. Failure to attend the meeting to present the final plan application shall result in a delay of the Board's review of the plan until the next meeting which the applicant attends.
- 7.1.7. At the meeting at which an application for final plan approval of a subdivision is initially presented, the Board shall issue a dated receipt to the applicant.
- 7.1.8. 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.
- 7.1.9. Upon determination that a complete application has been submitted for review, the Board shall direct the Land Use Office to issue a written notice to the applicant, indicating its complete status. The Board shall determine whether to hold a public hearing on the final plan application.
- 7.1.10. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (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 two (2) times, the date of the first publication to be at least seven (7) days before the hearing. A copy of the notice shall be sent by first class mail to abutting landowners and to the applicant, at least ten (10) days prior to the hearing. The Land Use Office shall prepare a written certification of the date, time, and location when and where notices were mailed. In addition, the notice of the hearing shall be posted in at least three prominent public places within the municipality at least ten (10) days prior to the hearing.
- 7.1.11. Where a subdivision is located within five (500) feet of a municipal boundary, the Town Clerk and the Planning Board of the adjacent municipality involved shall be notified at least ten (10) days prior to the hearing. Comments and recommendations made by the Planning Board of the adjacent municipality shall be given due consideration in the deliberations and decision-making process of the Ogunquit Planning Board.
- 7.1.12. Before the Planning Board grants approval of the final plan, the applicant shall file with the municipal treasurer either a certified check, bond letter of credit or other surety to cover the full cost of the required improvements. Any such surety, such as a letter of credit, performance bond, or other development agreement shall be satisfactory to the Board of

Selectmen, the Town Manager, and the municipal attorney as to form, sufficiency, manner of execution, and ease of management. The surety shall clearly indicate a period of time of at least one (1) year within which required improvements must be completed, with an option for renewal by the Board of Selectmen should the project not be completed with the specified time period. The certified check, bond, or other surety, shall include an amount required for recreation land or improvements as specified. The applicant shall present a copy of the receipt from the town treasurer for the certified check, or a letter from the Town Manager indicating approval of the surety, before the Planning Board grants approval of the final plan.

- 7.1.13 Within thirty days from the public hearing or within sixty 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.R.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 has 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.

## **7.2 Inspection of Required Improvements**

- 7.2.1 At least five (5) days prior to commencing construction of required improvements, the applicant shall notify the Code Enforcement Officer, in writing, of the time when he or she proposes to commence construction of such improvements, so that the Board of Selectmen can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
- 7.2.2 If the Code Enforcement Officer shall find, upon inspection of the improvements performed before expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the applicant, he shall so report to the Board of Selectmen and Planning Board. The Board of Selectmen shall then notify the applicant and if necessary, the company or agency backing the surety, and take all necessary steps to preserve the municipality's rights under the surety. No plan shall be approved by the Planning Board as long as the applicant is in default on a previously approved plan.
- 7.2.3 If, at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the Code Enforcement Officer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Code Enforcement Officer may, upon approval of the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvement required by the Board. The Code Enforcement Officer shall

issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

- 7.2.4 The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body.

### **7.3 Submissions.**

- 7.3.1. The final plan shall consist 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 borderline on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. One reproducible, stable-based transparency to be recorded at the Registry of Deeds, and fifteen full size paper copies of the plan shall be submitted.

Fifteen copies of all application materials shall be submitted to the Land Use Office no less than fourteen days prior to a regularly scheduled Planning Board meeting in order to be placed on the Board's agenda.

- 7.3.2. The final plan shall include or be accompanied by the following information.

7.3.2.1 Completed Final Plan Application Form and Final Plan Application Submissions Checklist

- 7.3.2.2 Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.

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

- 7.3.2.4 An 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.

- 7.3.2.5 An indication of the type of water supply system(s) to be used in the subdivision.

- 7.3.2.5.1 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 measures deemed necessary.

- 7.3.2.5.2 When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.

- 7.3.6 The date the plan was prepared, north point, graphic map scale.

- 7.3.7 The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- 7.3.8 The location of any zoning boundaries affecting the subdivision.
- 7.3.9 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.
- 7.3.10 The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 7.3.11 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. The original reproducible plan shall be embossed with the seal of the registered land surveyor and be signed by that individual.
- 7.3.12 Street plans, meeting the requirements of Article 10.
- 7.3.13 A storm water management plan, prepared by a registered professional engineer in accordance with the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection (1995). The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- 7.3.14 An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- 7.3.15 If applicable, the location of any streets, public improvements, or open spaces shown in the comprehensive plan or capital improvements program, that fall within the boundaries of the proposed subdivision.
- 7.3.16 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 Board of Selectmen are satisfied with the legal sufficiency of the written offer to convey title shall be included.

7.3.17 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.

7.3.18 Evidence that the applicant has the financial and technical capacity to implement the project.

7.3.19 The location and method of disposal for land clearing and construction debris.

#### **7.4 Final Approval and Filing**

7.4.1 Upon the granting of final approval pursuant to sec. 7.1.13 above, the plan shall be signed by a majority of the Members of the Planning Board. -Requisite numbers of signed copies shall then be filed by the applicant at the York County Registry of Deeds (YCRD). After filing at the YCRD, the applicant shall submit to the Ogunquit Land Use Office and Tax Assessor's Office, paper copies of the plan filed at the YCRD that shows the YCRD recording marks and the YCRD book and page number. Any subdivision not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the Planning Board as herein provided, shall become null and void.

7.4.2 At the time the Planning Board grants final plan approval, it may permit the plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the plan. The applicant may file a section of the approved plan with the Municipal Tax Assessor and the Registry of Deeds if said section constitutes at least ten (10) percent of the total number of lots contained in the approved plan. In these circumstances, plan approval of the remaining sections of the plan shall remain in effect for three (3) years or a period of time mutually agreed to by the Municipal Officers, Planning Board and the subdivider.

#### **7.5 Plan Revisions After Approval**

7.5.1 No changes, erasures, modifications or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first resubmitted and the Planning Board approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void and the Board shall institute proceedings to have the plan stricken from the records of the Municipal Tax Assessor and the Registry of Deeds.

#### **7.6 Public Acceptance of Streets, Recreation Areas**

7.6.1 The approval by the Planning 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 on such plan.

7.6.2 When a park, playground or other recreation area shall have been shown on the plan, approval of the plan shall not constitute an acceptance by the municipality of such area. The Planning

Board shall require the plan to be endorsed with appropriate notes to this effect. The Planning 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 of any such recreation area.

## **ARTICLE 8 ENFORCEMENT**

- 8.1 No plan of a subdivision of land within the municipal boundaries which would constitute a subdivision as defined herein, shall hereafter be filed or recorded in the Registry of Deeds until a final plan thereof shall have been approved by the Planning Board in accordance with all of the requirements, design standards and construction specifications set forth elsewhere in these standards, nor until such approval shall have been entered on such final plan by the Planning Board.
- 8.2 No person, firm, corporation or other legal entity may convey, offer or agree to convey land in a subdivision which has not been approved as required by this section and shall be punished by a fine of not more than \$1,000.00 for each such conveyance, offering or agreement. The Attorney General, the municipality or the appropriate municipal officers may institute proceedings to enjoin the violation of this section.
- 8.3 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 Planning Board.
- 8.4 Not only is making a subdivision without Planning Board approval a violation of the law, but also within such a subdivision is grading or construction of roads, grading of land or lots or construction of buildings until such time as a final plan of such subdivision shall have been duly prepared, submitted, reviewed, approved and enforced as provided in these standards and until the original copy of the final plan so approved and endorsed has been duly recorded in the York County Registry of Deeds.

## **ARTICLE 9 GENERAL REQUIREMENTS**

### **9.1 Purpose**

In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances, the burden of proof shall be upon the person proposing the subdivision.

### **9.2 Subdivision Plan Shall Conform to Comprehensive Plan**

9.2.1 Any proposed subdivision shall be in conformity with a Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

### **9.3 Relationship of Subdivision to Community Service**

9.3.1 Any proposed subdivision may be reviewed by the Board with respect to its effect upon existing services and facilities. The final plan shall include a list of the construction items that will be completed by the developer prior to the sale of the lots and the list of construction and maintenance items that must be borne by the municipality, which shall include, but not be limited to, schools, including busing; road maintenance and snow removal; police and fire protection; solid waste disposal; recreation facilities; runoff water, disposal drainage ways and/or storm sewer enlargement with sediment traps.

9.3.2 The board may further require the developer of a subdivision to provide accurate cost estimates to the Town for the above services and the expected tax revenue of the subdivision.

### **9.4 Retention of Proposed Public Sites and Open Spaces**

9.4.1 Depending on the size and location of the subdivision, the Board may require the developer to provide up to ten (10%) percent of his total area for recreation. It is desirable that areas reserved for recreation be at least five (5) acres in size and easily accessible from all lots within the subdivision.

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

## 9.5 Preservation of Natural and Historic Features

9.5.1 The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (6" or more), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.

## 9.6 Land Not Suitable for Development

9.6.1 The Board shall not approve such portions of any proposed subdivision that:

9.6.1.1 Are situated below sea level.

9.6.1.2 Are located within the one hundred (100) year frequency flood plain as identified by an authorized Federal or State agency or when such identification is not available, are located on flood plain soils identified and described in the National Cooperative Standard Soil Survey, unless the applicant shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least two (2) feet above the one hundred (100) year frequency flood. Elevation not to include filled or made land or if the applicant presents material which ensure:

1. That proposed developments are consistent with the need to minimize flood damage;
2. That all public utilities and facilities, such as sewer, gas, electrical and water systems are located, elevated and constructed to minimize or eliminate flood damage;
3. That adequate drainage is provided so as to reduce exposure to flood hazards;
4. That new or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood water and require that on-site waste disposal systems be located so as to avoid impairment of them or contamination from them during flooding; and
5. That construction within the one hundred (100) year flood plain conforms to the U.S. Army Corps of Engineers Flood Proofing Regulations.

9.6.1.3 Are located on land which must be filled or drained or on land created by diverting a water-course, except the Board may grant approval if a central sewage collection and treatment system is provided. In no instance shall the Board approve any part of a subdivision located on filled tidal wetlands or filled or drained Great Ponds (natural bodies of water ten (10) acres or more in size).

9.6.1.4 Employs septic sewage disposal and is located on soils rated poor or very poor by the Soil Suitability Guide for Land Use Planning in Maine (as revised in February, 1975). Where soils are rated fair for septic sewage disposal, the minimum area of that soil shall be forty thousand (40,000) square feet.

## 9.7 **Blocks**

9.7.1 In blocks exceeding eight hundred (800) feet in length, the Planning Board may require the reservation of a twenty (20) foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four (4) foot wide footpath be included. The Planning Board shall require the subdivider to provide for the proper maintenance of any such easement.

## 9.8 **Lots**

- 9.8.1 The lot's size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated. Land that is not suitable for development, that is required to be subtracted from lot areas by the definition of "Net Residential Area" in Article 2 of the Zoning Ordinance, shall not be included in the calculation of the lot areas.
- 9.8.2 Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.
- 9.8.3 The subdividing of the land shall be such as to provide that all lots shall have the minimum street frontage as per the Ogunquit Zoning Ordinance.
- 9.8.4 Double frontage lots and reverse frontage lots shall be avoided, except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages or topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
- 9.8.5 Side lot lines shall be substantially at right angles or radial to street lines.
- 9.8.6 Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit or prohibit future resubdivision in accordance with the requirements contained in these standards.
- 9.8.7 If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirement 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 of these standards or for the purposes of on-site disposal.

9.8.8 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. The ratio of lot length to width shall not be more than 5:1.

## 9.9 Easements for Natural Drainage Ways

9.9.1 Where a subdivision is traversed by a natural watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse and such further width or construction or both, as will assure that no flooding occurs and all storm water can be disposed of properly. Such easement or right-of-way shall be not less than thirty (30) feet in width.

## 9.10 Utilities

9.10.1 The size, type and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the Board and installed in accordance with local practice.

9.10.2. Utilities shall be installed underground except as otherwise approved by the Board.

9.10.3 Utilities shall be installed in a timely manner during street construction so as to prevent re-excavation of the finished street.

## 9.11 Additional Requirements

9.11.1 Street trees, esplanades and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, maintained and replaced for a period of one (1) year from planting, they shall be incorporated in the final plan and executed by the subdivider as construction of the subdivision progresses.

9.11.2 The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip of at least twenty (20) feet planed with appropriate shrubbery between abutting properties that are so endangered.

## 9.12 Required Improvements

9.12.1 The following are required improvements: monuments, street signs, streets, sidewalks (when appropriate), water supply, sewage disposal and storm drainage, except where the Board may waive or vary such improvements in accordance with the provisions of these standards.

### 9.12.2 Monuments

9.12.2.1 Permanent monument shall be set at all corners and angle points of the subdivision boundaries and at all street intersections and point of curvature.

- 9.12.2.2 Monuments shall be stone or granite located in the ground at final grade level and indicated on the final plan. The minimum monument size shall be four (4) inches square at the top and three (3) feet in length. After they are set, drill holes, a half an inch (1/2) deep, shall locate the point or points described above.

### 9.12.3 Water Supply

- 9.12.3.1 A public water supply system with fire hydrants shall be installed at the expense of the subdivider or, if in the opinion of the Board, service to each lot by a public water system is not feasible, the Board may allow individual wells to be used.
- 9.12.3.2 The subdivider shall demonstrate by actual test or a signed affidavit from an authorized representative of the servicing water company that water meeting Public Health Service, Drinking Water Standards, 1962 can be supplied to the subdivision at the rate of at least three hundred fifty (350) gallons per day per dwelling unit and at an adequate pressure for fire fighting purposes.
- 9.12.3.3 Storage shall be provided as necessary to meet peak domestic demands and fire protection needs.
- 9.12.3.4 The subdivider shall demonstrate in the form of signed affidavits from the servicing water company or by engineering reports prepared by a civil engineer registered in the State of Maine that the proposed subdivision will not result in an undue burden on the source, treatment facilities or distribution system involved or provide adequate assurance that such source, treatment facility or distribution system will be notified to meet the expanded needs.
- 9.12.3.5 The minimum water main permitted shall be eight (8) inches and shall be installed at the expense of the subdivider.
- 9.12.3.6 The water supply system shall be designed and installed in accordance with requirements of the Maine Department of Human Services.
- 9.12.3.7 Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only if it is not economically or technically feasible to develop other ground water sources.
- 9.12.3.8 If a central water supply is provided by the subdivider, location and protection of the source and design, construction and operation of the distribution system and appurtenances and treatment facilities shall conform to the recommendations included in the Manual for Evaluating Public Drinking Water Supplies, Public Health Service No. 1180 (1969).

#### 9.12.4 Sewage Disposal

- 9.12.4.1 A sanitary sewer system shall be installed at the expense of the subdivider or, if in the opinion of the Board, service to each lot by a sanitary sewer system is not feasible, the Board may allow individual septic tanks to be used. In no instance shall a septic disposal system be allowed in soils rated poor or very poor for such purpose by the Soil Suitability Guide for Land Use Planning Maine as revised February, 1975.
- 9.12.4.2 A developer shall submit plans for sewage disposal designated by a professional civil engineer registered in the State of Maine in full compliance with the requirements of the State of Maine Plumbing Code and/or Department of Environmental Protection.
- 9.12.4.3 Where a public sanitary sewer line is located within one thousand five hundred (1,500) feet of a proposed subdivision at its nearest point, the subdivider shall connect into such sanitary sewer line with a main not less than eight (8) inches in diameter, provided the appropriate municipal agencies certify that extending the services will not be a burden to the system.

#### 9.12.5 Surface Drainage and Storm Water Management (Amended April 3, 2000)

- 9.12.5.1 Where a subdivision is traversed by a water course, drainage way or future sewer line or where the Board feels that surface water drainage to be created by the subdivision should be controlled for the protection of the subdivision and other property owners, there shall be provided an easement or drainage right-of-way and culverts, catch basins or other means of channeling surface water within such subdivision and over other properties of such nature, width and location as the Board of municipal engineer deems adequate.
- 9.12.5.2 The developer shall provide a statement from a civil engineer, registered in the State of Maine, that the proposed subdivision or site plan will not create erosion, drainage or runoff problems either in the subdivision or site plan or other properties. The developer shall submit a surface drainage plan showing ditching, culverts, easements and other proposed improvements. Adequate provisions shall be made to manage any storm water flows generated by a development. All development subject to subdivision and/or site plan review shall meet the following standards for storm water management.
1. Storm water shall be detained on the site using the natural features of the site to the greatest extent possible.
  2. The rate of storm water flows from the site after development shall not exceed the predevelopment rate of storm water flow from the site unless the applicant can demonstrate, through engineering studies, that no negative impact on down gradient drainage facilities due to increased storm water runoff rates from a site will result.

3. The quality of the storm water flows off site shall be addressed. Retention of the first one-half (1/2) inch of runoff from a storm event for twenty-four (24) hours or other storm water quality improvement measure shall be necessary to minimize or eliminate sediments and other contaminants, including, but not limited to domesticated animal offal, from the storm water leaving the site.
4. In addition to any other applicable requirements of this Ordinance, any development which would require a storm water management permit from the Maine Department of Environmental Protection (DEP) under 39 MRSA 420-D shall comply with rules adopted by DEP pursuant to the statute. (1 thru 4 Adopted April 3, 2000)

9.12.5.3 Topsoil shall be considered part of the subdivision. Except for surplus from roads, parking areas and building excavations, it is not to be removed from the site.

9.12.5.4 Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. The Board may require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.

9.12.5.5 To prevent soil erosion of shoreline areas, tree cutting in a strip paralleling the shoreline and extending thirty-five (35) feet inland from all points along the normal high water mark shall be limited in accordance with the following provisions:

1. No more than thirty (30) percent of the length of the strip shall be clear-cut to the depth of the strip.
2. Cutting of this thirty (30) percent shall not create a clear-cut opening in this strip greater than thirty (30) feet wide for every one hundred (100) feet of shoreline.
3. In the remaining seventy (70) percent length of the strip, cutting shall leave sufficient cover to preserve natural beauty and control erosion.

### 9.13 Dwelling Size

No dwelling unit shall provide less than six hundred fifty (650) square feet of habitable floor space. (Adopted April 2, 1988)

## **ARTICLE 10 STREET DESIGN AND CONSTRUCTION STANDARDS**

### **10.1 General Procedures and Requirements**

10.1.1 The Planning Board shall not approve any subdivision plan unless proposed street(s), whether they are to be offered to the public for acceptance or to remain private, are designed and constructed in accordance with all State and local ordinances as well as the specifications contained in these regulations. When provisions or standards herein specified are more restrictive than zoning or other ordinances, these standards and requirements shall apply, but in any case, the most rigid requirement of either this standard, the zoning or other ordinance shall apply whenever they may be in conflict. Final subdivision approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of acceptance by the municipality or any street, easement or other open space.

10.1.2 Subdividers shall submit to the Planning Board, as part of an integral part of the plot plan and application for subdivision approval, the following information:

1. Applicant's name, address, telephone number, signature and date;
2. Names of the owners of record of the land upon which the proposed street is located;
3. A statement of any legal encumbrances on the land upon which the proposed way is located;
4. The anticipated beginning and ending dates of each major phase of street construction; and
5. A plan view, centerline view and typical cross section view of the proposed street(s).

#### **10.1.3 Plans**

The plans and illustrations submitted as part of the application shall include the following information.

1. The date and scale of the plan;
2. The direction of TRUE north;
3. The beginning and ending points with relation to accepted town ways and any planned or anticipated future extensions of the streets proposed for acceptance. (All terminal points and the centerline alignment shall be identified by survey stationing.);
4. The roadway and roadway limits with relation to existing buildings and established landmarks;

5. Dimensions, both linear and angular, necessary for locating subdivisions, lots, easements and building lines;
6. The lots as laid out and numbered on the proposed street showing the names of all owners of abutting property;
7. All natural waterways and watercourses in or on land contiguous to the proposed street;
8. The kind, size, location, profile and cross section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and/or watercourses;
9. Complete curve data shall be indicated for all horizontal and vertical curves;
10. The turning radii at all intersections;
11. All centerline gradients;
12. The limits and locations of all proposed sidewalks and curbing;
13. The location of all existing and proposed overhead and underground utilities to include, but not be limited to, the following: public water supply systems, sanitary sewer system, electric power line poles or underground vaults, telephone line poles or underground vaults, fire hydrants, street lights, fire alarm boxes; and
14. Such other information as may be required by the Planning Board as may be deemed essential for proper evaluation and action.

10.1.4 Upon receipt of an application for subdivision approval which includes proposed streets, the Planning Board shall confirm, in writing, the classification of the proposed streets. In addition, the commission of said application and its classification shall request a review and comment on the proposed street plan.

10.1.5 In addition to other fees for subdivision reviews, a fee is herein established to partially defray the cost of technical, legal and administrative services required for the review, processing and inspection of roads and streets. This fee is to be paid by the developer to the Town Clerk at the time of his application for road and street construction.

## 10.2 **Street Classification Definitions**

### 10.2.1 **Arterial Street**

An arterial street shall be defined as a major thoroughfare which serves as a major traffic way for travel between and through a town.

### 10.2.2 **Collector Street**

A collector street shall be defined as a street servicing at least fifteen (15) units of residential development or streets which serve as feeders to arterial streets and collectors of traffic from minor streets.

### 10.2.3 **Local Residential Street**

A local residential street shall be defined as a street servicing less than fifteen (15) units of Residential development.

### 10.2.4 **Planning Board Determination**

The classification of a proposed street shall be made by the Planning Board after its consideration of land use or a Comprehensive Plan adopted by the town. Said determination may be made by the Planning Board prior to the formal application after submission of all information that may be required for that purpose.

## 10.3. **Street Design Standards**

10.3.1 Design standards shall be defined as paved streets with such appurtenances as curbs, esplanades, paved sidewalk(s), ditches, culverts, under drain and/or storm water drainage systems. All proposed streets shall be designed and constructed to meet the design standards of this section.

10.3.1.1 Proposed streets shall conform, as far as practical, to such Comprehensive Plan or policy statement as may have been adopted, in whole or in part, prior to the submission of the preliminary plan.

10.3.1.2 All streets in the subdivision shall be so designed that, in the opinion of the Board, they will provide safe vehicular travel while discouraging movement of through traffic.

10.3.1.3 The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing or planned streets, to topographical conditions to public convenience and safety and their appropriate relation to the proposed use of the land to be served by such street. Grades of streets shall conform as closely as possible to the original topography.

10.3.1.4 In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a twenty (20) foot side easement in the line of the street to provide continuation of pedestrian traffic or utilities to the next street.

- 10.3.1.5 Reserve strips controlling access to streets shall be prohibited where their control is definitely placed in the Town under conditions approved by the Planning Board.
- 10.3.1.6 In front of areas zoned and designed for commercial use or where a change of zoning to a zone which permits right-of-way and/or pavement, widths shall be increased by such amount on each side as may be deemed necessary by the Board to assure the free flow of through traffic without interference by parked or parking vehicles and to provide adequate and safe parking space for such commercial or business district.
- 10.3.1.7 Adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.
- 10.3.1.8 Where a subdivision or limited access highway borders on or contains a railroad right-of-way or limited access highway, the Planning Board may require a street approximately parallel to and on each side of such right-of-way as applicable, at a distance suitable for the appropriate use of the intervening land as for park purpose in residential districts or for commercial or industrial purposes in appropriate districts. Such distances shall also be determined with due regard for approach grades and future grade separations.
- 10.3.1.9 Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the plan, marked "Reserved for Road Realignment (or Widening) Purposes". It shall be mandatory to indicate such reservation on the plan when a proposed widening or realignment is shown on the official map. Land reserved for such purposes may not be counted in satisfying setback or yard or area requirements of the Zoning Ordinance.
- 10.3.1.10 Where a subdivision abuts or contains an existing or proposed arterial street, the Board may require marginal access streets (streets parallel to arterial streets providing access to adjacent lots), reverse frontage (that is frontage on a street other than the existing or proposed arterial street) with screen planting contained in a non-access reservation along the rear property line or such other treatment(s) as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- 10.3.1.11 Subdivisions containing fifteen (15) lots or more shall have at least two street connections with existing public streets or streets shown on the official map as such exists or streets on an approved subdivision plan for which a bond has been filed.

10.3.2 The following design standards apply according to street classification:

<u>DESCRIPTION</u>	<u>TYPE OF STREET</u>		
	<u>Arterial</u>	<u>Collector</u>	<u>Local Residential</u>
Minimum right-of-way width	68'	50'	50' (Amended 6/11/02)
Minimum pavement width	40'	24'	20' (Amended 6/11/02)
Minimum Sidewalk width		5' 5'	4'
Minimum grade	0.5%	0.5%	0.5%
Maximum grade	6.0%	6.0%	6.0%
Minimum centerline radius	800'	230'	150'
Minimum tangent between curves of reverse alignment	300'	200'	100'
Maximum Roadway crown	1/4"/foot	1/4"/foot	1/4"/foot
Minimum Roadway crown	1/8"/foot	1/8"/foot	1/8"/foot
Minimum angle of street intersections (see <b>Note</b> below)	90 degrees	90 degrees	90 degrees
Maximum Grade at intersections (within 75' of intersection)	2%	2%	2%
Curb radii at intersection 90 degrees	30'	20'	15'
Minimum property line radii at intersection	20'	10'	10'
Minimum width of shoulders (each side)	3'	3'	3'
Minimum sight distance	250'	200'	150'

**NOTE:** Intersections of streets shall be at angles as close to ninety (90) degrees as possible and in no case shall two (2) streets intersect at an angle smaller than sixty (60) degrees. To this end, where one street approaches another between sixty and ninety (60-90) degrees, the former street should be curved approaching the intersection.

### 10.3.3 Centerline

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

### 10.3.4 Dead End Streets

Dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii of the turn-around at the terminus of the dead end: property line/right-of-way – 65', outer edge of pavement – 50'. The maximum length of a dead end street, including the cul-de-sac, shall be 1000 feet.

### 10.3.5 Grades, Intersections and Sight Distances

- 10.3.5.1 Grades of all streets shall conform in general to the terrain and shall not be less than one-half (1/2) of one percent, nor more than five (5) percent for arterial, industrial and commercial streets, six (6) percent for collector streets or six (6) percent for minor streets in residential zones, but in no case, more than two (2) percent within fifty (50) feet of any intersection.
- 10.3.5.2 All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the Planning Board so that clear visibility shall be provided for distances specified in paragraph 10.3.2, Minimum Sight Distances.
- 10.3.5.3 Cross (four (4) cornered) street intersections shall be avoided insofar as possible except as shown on the Comprehensive Plan or at other important traffic intersections. A distance of at least two hundred (200) feet shall be maintained between center lines of offset intersecting streets.
- 10.3.5.4 Street intersections and curves shall be so designed as to permit adequate visibility for pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow twenty-five (25) foot sight lines between intersecting streets shall be cleared of all growth (except isolated trees) and obstructions above the level two (2) feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.

### 10.3.6 Sidewalks

Sidewalks where installed shall meet the minimum requirements as set forth herein.

#### 10.3.6.1 Bituminous Sidewalks

1. The gravel aggregate sub-base course shall be not less than twelve (12) inches in thickness;

2. The crushed aggregate base course shall be not less than two (2) inches in thickness; and
3. The hot bituminous pavement surface course shall be not less than two (2) inches in thickness, after compaction.

10.3.6.2 Portland Cement Concrete Sidewalks

1. The sand base shall be not less than six (6) inches in thickness; and
2. The Portland Cement Concrete shall be reinforced with six (6) inch square, number ten (10) wire mesh and shall be not less than four (4) inches in thickness.

10.3.6.3 Curbing

Curbing shall be quarried granite, bituminous concrete or cement, with a minimum height of six inches, and shall be installed on a thoroughly compacted gravel base of six (6) inches minimum, except bituminous curbing shall be installed on a three (3) inch thick bituminous pad.

10.4 **Street Construction Standards**

10.4.1 Minimum thickness of materials after compaction:

**STREET MATERIALS**

**MINIMUM REQUIREMENTS**

	<b><u>Arterial</u></b>	<b><u>Collector</u></b>	<b><u>Local Residential</u></b>
Aggregate sub-base course (Maximum sized stone – 4")	18"	18"	18"
Crushed aggregate base course	4"	3"	3"
Hot bituminous pavement (after compaction)			
Total thickness (after compaction)	3 ¼"	2 ½"	2 ½"
Surface course (after compaction)	1 ½"	¾"	¾"
Base course (after compaction)	1 ¾"	1 ¾"	1 ¾"

Hot bituminous pavement conforming to the standards set herein shall be used on all streets within the Town or village centers and on all arterial roadways. Hot bituminous pavement also shall be used on heavily trafficked streets, through streets and where deemed necessary by the Planning Board. Liquid asphalt may be used in more rural areas where the traffic

volume is low and where through traffic is minimal. The final determination of the paving shall be made by the Planning Board.

#### 10.4.2 Preparation

- 10.4.2.1 Before any clearing has started on the right-of-way, the center line of the new road shall be staked and side staked at fifty (50) foot intervals. Limits of clearing shall be marked by stakes or flagging distances from the center line shall be obtained from the cross sections.
- 10.4.2.2 Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable material. All ledge, large boulders and tree stumps shall be removed from the right-of-way.
- 10.4.2.3 Tree stumps and other organic materials shall be removed to a depth of two (2) feet below the subgrade of the roadway. Soils which are designated as being poor or very poor for road fill by the Soil Suitability Guide for Land Use Planning in Maine, as revised February, 1975 shall be removed from the street site to a depth of two (2) feet below the subgrade and shall be replaced where necessary with soils listed by the Soil Suitability Guide as being good or fair for road fill.
- 10.4.2.4 Side slopes shall not be steeper than a slope of three (3) feet horizontal to one (1) foot vertical, graded, fertilized and seeded. Planting strips to be lined at the rate of ten (10) pounds of a 10-10 fertilizer per one hundred (100) square feet or equivalent and seeded with a conservation mix meeting the standards of the York County Soil and Water Conservation District.

#### 10.4.3 Bases and Pavements

##### 10.4.3.1 Bases

1. Aggregate sub-base course – Gravel aggregate sub-base shall not contain particles of rock exceeding four (4) inches in any dimension; and
2. Aggregate base course – Crushed aggregate base shall not contain particles of rock that will not pass the two (2) square sieve.

##### 10.4.3.2 Pavement Joints

Where pavement placed joins existing pavement, the existing pavement shall be along a smooth line and to a neat, even, vertical joint.

##### 10.4.3.3 Curbs and Gutters

1. Street curbs and gutters shall be installed as required by the Planning Board; and
2. Curbs shall be vertical except when sloped curbs are specifically allowed by the Planning Board.

## 10.5 Storm Drainage Design Standards

10.5.1 Adequate provision shall be made for disposal of all storm water collected in streets and areas tributary to the street system and underground water through ditches, culverts, under drain and/or storm water drainage systems.

10.5.1.1 All storm water systems shall be designed to meet the criteria of a five (5) year storm based on rainfall data from Weather Bureau records in Portland.

10.5.1.2 Appropriate conveyances for outlets to drainage systems must be provided. Asphalt coated steel culverts and asphalt coated steel pipes or equivalent shall be used where drainage is required.

10.5.1.3 In any case, the minimum pipe size for any storm drainage pipe shall be twelve (12) inches. Catch basins of an appropriate size and type shall be installed where necessary and shall be located generally at the curb line. Catch basins shall be placed away from the line of traffic flow, however, shall be adequate to design and strength to accommodate vehicle traffic.

10.5.2 Upstream drainage shall be accommodated by an adequately size system for existing conditions and future potential development in the upstream drainage area or areas tributary to the proposed town way. The adequacy of the proposed system(s) shall be determined by the Planning Board.

10.5.3 Existing or future downstream drainage requirements shall be studied to determine the effect of proposed drainage. The applicant shall demonstrate to the satisfaction of the Planning Board that the storm drainage will not, in any way, overland existing or future storm drainage systems downstream from the proposed street.

10.5.4 Where open ditches, channels, streams or natural drainage courses are used either to collect or discharge storm water, adequately sized perpetual easements shall be provided and appropriate erosion control measures taken. No storm water will be permitted to drain across a street or across an intersection.

### 10.5.5 Under Drainage Systems

Where subsurface solids are of the nature to require an under drainage system, under drains shall be installed and discharged not to degrade the environment.

- 10.5.5.1 An under drainage system shall be installed to properly drain all springs or areas where the ground water level is too high and would cause a hazard to the stability of the roadway base.

## 10.6 Storm Drainage Construction Standards

- 10.6.1 All material used for storm drainage construction shall be in conformity with State of Maine Specifications for Highways and Bridges, most recent version. In addition, the quality of storm water flows off the street shall be addressed. Retention of the first half (1/2) inch from a storm event for twenty-four (24) hours by an oil and gas separator catch basin (properly maintained) or other storm water quality improvement measures may be necessary, as determined by the Planning Board, to minimize or eliminate sediments, hydrocarbons or other contaminants from the storm water leaving the right-of-way.

### 10.6.2 General Construction Requirements

- 10.6.2.1 Trenching shall be accomplished in accordance with all appropriate State and federal safety requirements.
- 10.6.2.2 Drain alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drainage is obtained in writing from the Planning Board.
- 10.6.2.3 Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. In straight runs, manholes shall be placed at a maximum of four hundred (400) feet intervals.
- 10.6.2.4 When necessary, outlets shall be terminated in an end wall or concrete construction or shall be rip-rapped to prevent erosion or other appropriate measures taken. Facilities for energy dissipation shall be provided where necessary.

## 10.7 Additional Improvements and Requirements

### 10.7.1 Erosion Control

Procedures shall be undertaken, both during preparatory, construction and cleanup stages to prevent soil erosion and water pollution. A plan shall be prepared meeting the standards of the York County Soil and Water Conservation District.

### 10.7.2 Cleanup

Following street construction, the developer and contractor shall conduct a thorough cleanup

of stumps and other debris from the entire road or street right-of-way.

### **10.7.3 Street Name, Street Signs, Street Lights**

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 Planning Board. Street name signs shall be furnished and installed by the developer. The type, size and location shall be subject to the approval of the Planning Board. Street lighting shall be installed as required by the Planning Board.

10.7.4 A residential neighborhood, development or subdivision with clearly defined geographical boundaries may have on (1) sign located at the primary entrance not to exceed twelve (12) square feet. (Adopted November 6, 2001)

## **10.8 Design and Construction Plans**

10.8.1 Plans and illustrations submitted in accordance with Section 10.2.3 (Plans) shall be designed and prepared by a professional civil engineer registered in the State of Maine. No construction will be permitted until the Planning Board has approved the plans. 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 standards up to and including that lot.

10.8.2 Utilities, where available, shall be installed prior to the street construction phase so as to avoid re-excavation of the finished street.

10.8.3 Prior to the commencement of each major phase of construction, the Code Enforcement Officer shall be notified.

10.8.4 Upon completion of street construction and prior to a vote by the Board of Selectmen to submit a proposed town way to a Town Meeting, a written certification signed by a professional Civil Engineer registered in the State of Maine shall be submitted to the Board of Selectmen, at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements set forth herein.

## **10.9 Performance Bond or Surety**

10.9.1 Pursuant to the procedures set forth in section 7.1.11, prior to the time of the approval of the final plan application, the applicant shall tender either a certified check payable to the Town, or other such surety or performance bond payable to the Town in the amount of one hundred (100) percent of the cost of streets, and completing all grading, paving, storm drainage and utilities specified in the application.

10.9.2 Prior to the release of such check, bond or other surety, the Planning Board shall determine to its satisfaction, in part by the written certification required pursuant to Section 10.8.4, that the

proposed street and any other improvements meet or exceed the design and construction requirements set forth in the application and this ordinance.

## **ARTICLE 11 RELEASE OF PERFORMANCE BOND OR SURETY**

- 11.1 Before a subdivider may be released from any obligation required by this guarantee of performance, the Board shall require certification from the Municipal Engineer or appointed engineer and whatever other agencies and departments that may be involved to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and local codes and ordinance.

## **ARTICLE 12 WAIVERS OF SUBMISSIONS OR REVIEW STANDARDS**

- 12.1 Where the Planning Board finds that unnecessary hardships may result from strict compliance with the required application submissions or where there are special circumstances of a particular plan, upon written request of the applicant, the Board may waive application submissions so that substantial justice may be done and that the public interest be secure, provided that such waivers will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or the Zoning Ordinance.
- 12.2 Where the Planning Board finds that unnecessary hardships may result from strict compliance with particular review standards, or that due to special circumstances of a particular plan, the provision of certain required improvements or compliance with particular review standards is not requisite in the interest of public health, safety and general welfare or is inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, upon written request of the applicant, the Board may waive compliance with such review standards, subject to appropriate conditions, provided that such waivers will not have the effect of nullifying the intent and purpose of the Comprehensive Plan or the Zoning Ordinance.

## **ARTICLE 13 APPEALS**

- 13.1 Any appeal from an action of the Planning Board in administering the provisions of these regulations shall be made to the Superior Court in accordance with state law.

## **ARTICLE 14 SEVERABILITY AND EFFECTIVE DATE**

- 14.1 The invalidity of any provision of these regulations shall not invalidate any other part.
- 14.2 These regulations shall take effect immediately on adoption of the same by the Planning Board.

## Appendix

### Maine Revised Statutes Annotated

*All copyrights and other rights to statutory text are reserved by the State of Maine. The text included in this publication is current to the end of the Second Special Session of the 122nd Legislature, which adjourned July 30, 2005, but is subject to change without notice. It is a version that has not been officially certified by the Secretary of State. Refer to the Maine Revised Statutes Annotated and supplements for certified text.*

### Title 30-A, §4401, Definitions

\* \* \* \* \*

**4. Subdivision.** "Subdivision" means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period. [2001, c. 651, §§1-3 (amd).]

A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

- (1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence that has been the subdivider's principal residence for a period of at least 5 years immediately preceding the 2nd division; or
- (2) The division of the tract or parcel is otherwise exempt under this subchapter.

[2001, c. 359, §1 (amd).]

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

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

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

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

[2001, c. 651, §1 (amd).]

D.

[2001, c. 359, §2 (rp).]

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

[2001, c. 359, §3 (new).]

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

[2001, c. 359, §3 (new).]

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

[2001, c. 359, §3 (new).]

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a

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

[2001, c. 359, §3 (new).]

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

[2001, c. 359, §3 (new).]

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

[2001, c. 359, §3 (new).]

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

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

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

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

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

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

H.

[2001, c. 651, §2 (rp).]

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

- (1) Expands the definition of "subdivision" to include the division of a structure for commercial or industrial use; or
- (2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of "subdivision" except as provided in this subchapter. A municipality that has a definition of "subdivision" that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

[2001, c. 651, §3 (new).]

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

[2001, c. 359, §5 (amd).]