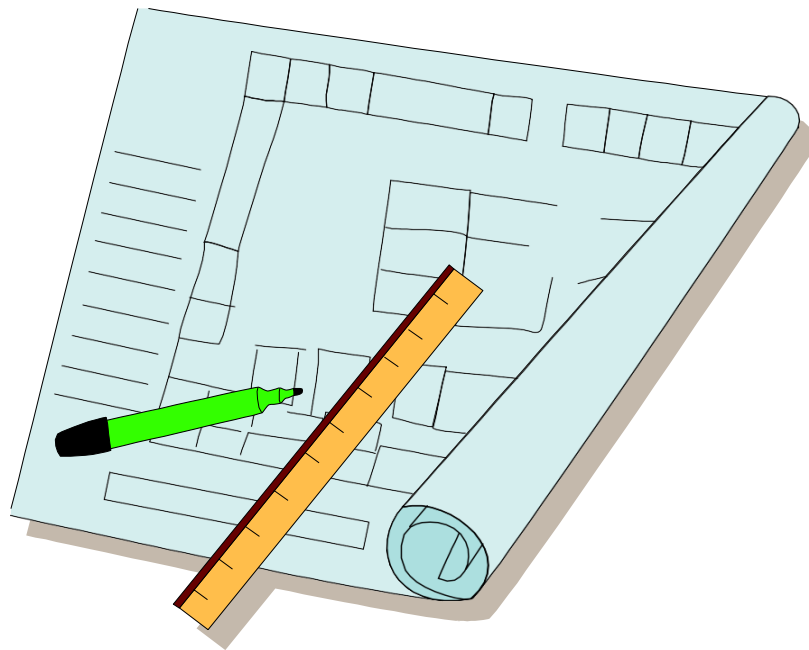


# Town of Arundel

## Subdivision Regulations



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## TABLE OF CONTENTS

<b>ARTICLE 1</b>	<b>PURPOSES .....</b>	<b>1</b>
<b>ARTICLE 2</b>	<b>AUTHORITY AND ADMINISTRATION</b>	
2.1	AUTHORITY .....	2
2.2	ADMINISTRATION .....	2
2.3	AMENDMENTS .....	2
<b>ARTICLE 3</b>	<b>DEFINITIONS.....</b>	<b>3</b>
<b>ARTICLE 4</b>	<b>ADMINISTRATIVE PROCEDURE .....</b>	<b>8</b>
<b>ARTICLE 5</b>	<b>PREAPPLICATION MEETING, SKETCH PLAN &amp; SITE INSPECTION</b>	
5.1	Purpose.....	9
5.2	Procedure .....	9
5.3	Submission.....	9
5.4	Contour Interval & On-Site Inspection .....	9
5.5	Rights Not Vested .....	9
5.6	Establishment of File .....	9
<b>ARTICLE 6</b>	<b>MINOR SUBDIVISIONS</b>	
6.1	General.....	10
6.2	Procedures.....	10
6.3	Submissions - The Final Plan Application.....	11
<b>ARTICLE 7</b>	<b>PRELIMINARY PLAN FOR MAJOR SUBDIVISION</b>	
7.1	Procedure .....	16
7.2	Submissions .....	17
<b>ARTICLE 8</b>	<b>FINAL PLAN FOR MAJOR SUBDIVISION</b>	
8.1	Procedure .....	21
8.2	Submissions .....	22
8.3	Final Approval and Filing.....	24
<b>ARTICLE 9</b>	<b>REVISIONS TO APPROVED PLANS</b>	
9.1	Procedure .....	26
9.2	Submissions .....	26
9.3	Scope of Review .....	26
<b>ARTICLE 10</b>	<b>INSPECTIONS AND ENFORCEMENT</b>	
10.1	Inspection of Required Improvements .....	27
10.2	Violations and Enforcement.....	28
<b>ARTICLE 11</b>	<b>PERFORMANCE STANDARDS</b>	
11.1	Pollution.....	29
11.2	Sufficient Water .....	29
11.3	Impact On Existing Water Supplies .....	30
11.4	Soil Erosion.....	30
11.5	Traffic Conditions .....	30

11.6	Sewage Disposal .....	31
11.7	Impact On Municipality’s Ability To Dispose Of Solid Waste .....	31
11.8	Impact On Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas Or Public Access To The Shoreline .....	32
11.9	Conformance with Zoning Ordinance and Other Land Use Ordinances.....	33
11.10	Financial and Technical Capacity .....	33
11.11	Impact On Water Quality or Shoreline.....	34
11.12	Impact On Ground Water Quality Or Quantity .....	36
11.13	Floodplain Management.....	37
11.14	Identification Of Freshwater Wetlands.....	37
11.15	Storm Water Management.....	37
11.16	Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services .....	38
11.17	Compliance with Timber Harvesting Standards.....	39

**ARTICLE 12 DESIGN GUIDELINES**

12.1	Sufficient Water.....	40
12.2	Traffic Conditions .....	42
12.3	Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.....	48
12.4	Storm Water Management Design Guidelines .....	50
12.5	Impact on Water Quality or Shoreline.....	51
12.6	Blocks.....	52
12.7	Lots.....	52
12.8	Utilities .....	52
12.9	Monuments.....	52

**ARTICLE 13 PERFORMANCE GUARANTEES**

13.1	Types of Guarantees .....	54
13.2	Contents of Guarantees.....	54
13.3	Escrow Account.....	54
13.4	Performance Bond.....	54
13.5	Letter of Credit .....	54
13.6	Conditional Agreement .....	55
13.7	Phasing of Development.....	55
13.8	Release of Guarantee .....	55
13.9	Default.....	55
13.10	Improvements Guaranteed.....	55

**ARTICLE 14 WAIVERS ..... 56**

**ARTICLE 15 APPEALS ..... 57**

**APPENDICES**

**APPENDIX 1 PREAPPLICATION SUBMISSION FORM**

**APPENDIX 2 APPLICATION**

**APPENDIX 3 SPECIFICATIONS FOR DRY HYDRANT INSTALLATION**

# **ARUNDEL PLANNING BOARD**

## **SUBDIVISION REGULATIONS**

### **ARTICLE I - PURPOSES**

The purposes of these regulations are

- 1.1** To provide for an expeditious and efficient process for the review of proposed subdivisions;
- 1.2** To clarify the criteria of the State Subdivision Law, Title 30-A M.R.S.A., Sections 4401-4406.
- 1.3** To assure that new development in the Town of Arundel meets the goals and policies of the Arundel Comprehensive Plan;
- 1.4** To assure the comfort, convenience, safety, health, and welfare of the people of the Town of Arundel;
- 1.5** To protect the environment and conserve the natural and cultural resources identified in the Arundel Comprehensive Plan as important to the community;
- 1.6** To assure a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures.
- 1.7** To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- 1.8** To promote the development of an economically sound and stable community.

## ARTICLE II - AUTHORITY AND ADMINISTRATION

### 2.1 Authority

- 2.1.A These standards have been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- 2.1.B These standards shall be known and may be cited as “Subdivision Regulations of the Town of Arundel, Maine.”

### 2.2 Administration

- 2.2.A The Planning Board of the Town of Arundel, hereinafter called the Board, shall administer these regulations.
- 2.2.B The provisions of these regulations shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Arundel.

### 2.3 Amendments

- 2.3.A These regulations may be amended by the Arundel Planning Board.
- 2.3.B A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

## ARTICLE III - DEFINITIONS

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

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

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

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

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

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

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

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

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

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

**Complete Substantial Construction:** The completion of no less than eighty-five (85%) of proposed improvements/infrastructure within an approved subdivision. If the subdivision is to consist of individual lots or units to be sold or leased by the subdivider, the cost of the construction of buildings on those lots shall not be included. *(Amended July 25, 2019)*

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

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

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

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

**Direct Watershed of Brimstone Pond:** That portion of the watershed which drains directly to Brimstone Pond. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan. Due to the scale of the map in the comprehensive plan there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a registered land surveyor showing where the drainage divide lies.

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

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

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

**Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, must be recorded at the York County Registry of Deeds.

**Freshwater Wetland:** Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of Brimstone Pond, a coastal wetland, river, stream, or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

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

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

**High Water Mark:**

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



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

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

**Lot Depth:** The mean of the horizontal distances between the front lot line and rear lot line, measured along the side lot lines.

**Lot Width:** The mean of the horizontal distances between the lot side lines measured along the front lot line and the rear lot line.

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

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

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

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

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

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

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

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

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

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

**Required Improvements:** Improvements made to the property to be subdivided following approval of the application for subdivision. These improvements include monumentation, street construction, stormwater management facilities, fire ponds and dry hydrants, public sewage collection or disposal facilities, public water systems, electrical and telecommunications systems, and erosion and sedimentation control measures. (definition added June 14, 2001)

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

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

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

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

**Street Classification:** (definitions amended June 14, 2001)

**Arterial, Collector and Minor Streets** shall be as defined in the Arundel Street Design and Construction Ordinance

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

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

**Private Right of Way:** A minor residential street which is not intended to be dedicated as a public way.

**Subdivision:** The division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins 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 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.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first 2 lots and the next dividing of either of the first 2 lots, by whomever accomplished, unless otherwise exempted herein shall be considered to create a 3rd lot, unless:

- a. Both those dividing 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
- b. The division is otherwise exempt under this subchapter.

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 definition, do not become subject to this definition by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.

The following divisions do not create a lot or lots for the purposes of this definition unless the intent of the transferor is to avoid the objectives of these regulations

- a. A division accomplished by devise;
- b. A division accomplished by condemnation;

- c. A division accomplished by order of court;
- d. 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. 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 these regulations. "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 cannot be given for consideration that is more than ½ the assessed value of the real estate;
- e. A division accomplished by a gift to a municipality if that municipality accepts the gift; and
- f. 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. 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.

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

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

The grant of a bona fide security interest in an entire lot that has been exempted from the definition herein, 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 definition.

For the purposes of this definition, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof. (amended July 26, 2001)

**Subdivision, Major:** Any subdivision containing more than four lots or dwelling units, or any subdivision in which a street is proposed to be constructed.

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

**Tract or Parcel of Land:** All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

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

#### **ARTICLE IV - ADMINISTRATIVE PROCEDURE**

- 4.1** In order to establish an orderly, equitable, and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Town Planner shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Town Planner. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes. However the Board shall take no action on any application not appearing on the Board's written agenda. (amended June 14, 2001)

## **ARTICLE V - PREAPPLICATION MEETING, SKETCH PLAN AND SITE INSPECTION**

### **5.1 Purpose**

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

### **5.2 Procedure**

- 5.2.A. The applicant shall present the sketch plan and make a verbal presentation regarding the site and the proposed subdivision.
- 5.2.B. Following the applicants presentation, the Board may ask questions and make suggestions to be incorporated by the subdivider into the application.
- 5.2.C. The date of the on-site inspection is selected.

### **5.3 Submission**

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

- 5.3.A. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten acres in size.
- 5.3.B. A copy of that portion of the York County Soil Survey covering the subdivision, showing the outline of the proposed subdivision.

### **5.4 Contour Interval and On-Site Inspection.**

Within thirty days of the preapplication meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection.

### **5.5 Rights Not Vested.**

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

### **5.6 Establishment of File.**

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

## **ARTICLE VI - MINOR SUBDIVISIONS**

### **6.1 General**

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

### **6.2 Procedures**

- 6.2.A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan. Applications shall be submitted by mail to the Planning Board in care of the Town Planner or delivered by hand to the municipal office. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board. (amended June 14, 2001)
- 6.2.B. All applications for Final Plan approval for a Minor Subdivision shall be accompanied by a non-refundable application fee as determined by the Select Board. If the Planning Board requires a third party review during the approval process shall be accomplished with a pass through process. The Town Planner shall retain the consultant and all fees will be paid for by the applicant. (amended August 1, 2023)
- 6.2.C. The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the Final Plan. Failure to attend the meeting to present the Final Plan shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends.
- 6.2.D. Upon receipt of an application for Final Plan approval of a minor subdivision, the Town Planner shall: (amended June 14, 2001)
  - 6.2.D.1 Issue a dated receipt to the applicant.
  - 6.2.D.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.

- 6.2.D.3 Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision includes or crosses the municipal boundary.
- 6.2.E Within thirty days of the receipt of the Final Plan application, the Town Planner 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.
- 6.2.F Upon a determination that a complete application has been submitted for review, the Town Planner shall notify the applicant in writing of that determination and place the application on the agenda for review by the Planning Board. (amended June 14, 2001)
- 6.2.G The Board shall determine whether to hold a public hearing on the Final Plan application.
- 6.2.H If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of the determination that an application is complete, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant. (amended June 14, 2001)
- 6.2.I Within thirty days from the public hearing or within sixty days of the determination that a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria contained Title 30-A M.R.S.A., §4404 and the standards in these regulations. If the Board finds that all the criteria of the Statute and the standards of these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the criteria of the Statute or the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The reasons for any denial or conditions shall be stated in the records of the Board. (amended June 14, 2001)

### **6.3 Submissions – The Final Plan Application Shall Consist Of The Following Items:**

- 6.3.A Nine copies of a completed application form.
- 6.3.B **Location Map.** The Location Map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:
  - 6.3.B.1 Existing subdivisions in the proximity of the proposed subdivision.
  - 6.3.B.2 Locations and names of existing and proposed streets.
  - 6.3.B.3 Boundaries and designations of zoning districts.
  - 6.3.B.4 An outline of the proposed subdivision and any remaining portion of the owner's property if the Final Plan submitted covers only a portion of the owner's entire contiguous holding.
- 6.3.C **Final Plan.** The subdivision plan for a Minor Subdivision shall consist of two white bond paper copies, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the

border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Nine copies of all information accompanying the plan shall be submitted. In addition, the applicant shall submit either seven additional copies of the Plan or seven copies of the Plan(s) reduced to a size of 11 by 17 inches if all pertinent detail can be read. (amended June 14, 2001, **amended August 1, 2023**)

In addition, the applicant shall submit a digital file providing the boundaries of the subdivision, all lots, and any street rights of way in a digital format that is referenced to the UTM (NAD 1983) and that can be imported into a format acceptable for placement into the town's GIS. (added June 27, 2002) (amended August 1, 2023)

- 6.3.D The application for approval of a Minor Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.
- 6.3.D.1 Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
  - 6.3.D.2 Verification of right, title, or interest in the property.
  - 6.3.D.3 A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.
  - 6.3.D.4 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.
  - 6.3.D.5 A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  - 6.3.D.6 Indication of the type of sewage disposal to be used in the subdivision. Test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
  - 6.3.D.7 Indication of the type of water supply system(s) to be used in the subdivision.
    - 6.3.D.7.a When water is to be supplied by public water supply, a written statement from the Kennebunk, Kennebunkport & Wells Water District shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the district approving the design of the extension shall be submitted.
    - 6.3.D.7.b 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.
  - 6.3.D.8 The date the Plan was prepared, north point, and graphic map scale.
  - 6.3.D.9 The names and addresses of the record owner, subdivider, individual or company who prepared the plan, and owners of property within 500 feet.



- 6.3.D.10 A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
- 6.3.D.11 The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing of existing vegetation.
- 6.3.D.12 The location of all rivers, streams, and brooks within or adjacent to the proposed subdivision. If the proposed subdivision is in the direct watershed of Brimstone Pond, the application shall indicate so.
- 6.3.D.13 Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
- 6.3.D.14 The zoning district in which the proposed subdivision is located and location of any zoning boundaries affecting the subdivision.
- 6.3.D.15 The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 6.3.D.16 The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks, and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.
- 6.3.D.17 The width and location of any streets, public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- 6.3.D.18 The location of any open space to be preserved and a description of proposed improvements and its management.
- 6.3.D.19 All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted, including an executed warranty deed transferring such property upon acceptance by the town. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included. (amended July 10, 2003)
- 6.3.D.20 If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- 6.3.D.21 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

- 6.3.D.21.a Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled “Hydrogeologic Data for Significant Sand and Gravel Aquifers”, by the Maine Geological Survey, 1985, Map No. 4; or
- 6.3.D.21.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; and proposed use of shared or common subsurface waste water disposal systems.

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

- 6.3.D.22 An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from Trip Generation Manual, 1991 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- 6.3.D.23 For subdivisions projected to generate more than 400 vehicle trips per day or commercial subdivisions involving 40 or more parking spaces or, 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. (amended June 14, 2001)
- 6.3.D.24 A storm water management plan, prepared by a registered professional engineer in accordance with Urban Hydrology for Small Watersheds, T.R. 55, 1986 edition, published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally or more applicable to the site.
- 6.3.D.25 An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices by the Cumberland County SWCD and Maine DEP dated 1991. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of Brimstone Pond, and upon a finding that the proposed subdivision will not involve road construction and that no driveway or house construction will occur on sites with slopes steeper than 10%.
- 6.3.D.26 Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan.

- 6.3.D.27 If the proposed subdivision is in the direct watershed of Brimstone Pond, a phosphorus control plan.
- 6.3.D.27.a The following shall be submitted:
- 6.3.D.27.a.1 A phosphorus Impact Analysis and Control Plan conducted using the procedures set forth in Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, September, 1992 revisions. (amended June, 2002)
  - 6.3.D.27.a.2 A long-term maintenance plan for all phosphorus control measures.
  - 6.3.D.27.a.3 The contour lines shown on the plan shall be at an interval of no less than five feet.
  - 6.3.D.27.a.4 Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.
- 6.3.D.28 If the owner of the parcel to be subdivided has owned the parcel for less than five years, a narrative describing any timber harvesting operations since the owner obtained the parcel. A copy of the Forest Operations Notification and a written determination of the harvest's compliance with Maine Forest Service's Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting certified by a licensed forester shall be submitted. (added December 9, 2004)

## ARTICLE VII - PRELIMINARY PLAN FOR MAJOR SUBDIVISION

### 7.1 Procedure

- 7.1.A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a preliminary plan. Applications shall be submitted by mail or delivered by hand to the Planning Board in care of the Town Planner. Failure to do so shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout show on the Sketch Plan, plus any recommendations made by the Board. (amended June 14, 2001)
- 7.1.B. All applications for preliminary plan approval for a Major Subdivision shall be accompanied by an application fee in an amount specified by the Board of Selectmen's Schedule of Fees. In addition, the applicant shall pay the cost for any professional peer reviews required by the Planning Board in the review of the application. 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. (amended February 14, 2008) (Amended January 8, 2018) (amended August 1, 2023)
- 7.1.C. Upon receipt of an application for Preliminary Plan approval of a major subdivision, the Town Planner shall (amended June 14, 2001)
- 7.1.C.1. Issue a dated receipt to the applicant.
- 7.1.C.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.
- 7.1.C.3. Notify the Town Clerk and the review authority of the neighboring municipalities if any portion of the subdivision includes or crosses the municipal boundary.
- 7.1.D. Within thirty days of the receipt of the Preliminary Plan application, the Town Planner shall determine whether the application is complete and notify the applicant in writing of that determination. If the application is not complete, the Town Planner shall notify the applicant of the specific additional material needed to complete the application. (amended June 14, 2001)
- 7.1.E. Upon determination that a complete application has been submitted for review, the Town Planner shall issue a dated receipt to the subdivider and place the application on the agenda for review by the Planning Board. (amended June 14, 2001)
- 7.1.F. The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the preliminary plan application. (amended June 14, 2001)
- 7.1.G. The Board shall determine whether to hold a public hearing on the preliminary plan application.
- 7.1.H. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of the determination that it has received a complete application, and shall publish a notice of

the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant. (amended June 14, 2001)

- 7.1.I. Within thirty days from the public hearing or within sixty days of the determination that a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant. If the board determines that a third party review of the application is necessary the Town Planner shall retain a third party reviewer and the applicant shall pay for that review upon receipt of an Invoice from the town. (amended June 14, 2001) (amended August 1, 2023)
- 7.1.J. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
- 7.1.J.1. The specific changes which it will require in the Final Plan;
  - 7.1.J.2. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
  - 7.1.J.3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the Final Plan.

## 7.2 Submissions

The preliminary plan application shall consist of the following items.

### 7.2.A. Application Form

Nine copies of a completed application form shall be submitted. (amended June 14, 2001)

### 7.2.B. Location Map

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

- 7.2.B.1. Existing subdivisions in the proximity of the proposed subdivision.
- 7.2.B.2. Locations and names of existing and proposed streets.
- 7.2.B.3. Boundaries and designations of zoning districts.
- 7.2.B.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.

### 7.2.C. Preliminary Plan

The preliminary plan for a Major Subdivision shall be submitted in three copies of one or more maps or drawings, with all dimensions shown 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. Nine copies of all information accompanying the plan shall be submitted. In addition, the applicant shall submit either six additional copies of the Plan or seven copies of the Plan(s) reduced to a size of 11 by 17 inches if all pertinent detail can be read. (amended June 14, 2001)

- 7.2.D. The application for preliminary plan approval shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met. (amended June 14, 2001)
- 7.2.D.1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
  - 7.2.D.2. Verification of right, title, or interest in the property.
  - 7.2.D.3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a Registered Land Surveyor. The corners of the parcel shall be located on the ground and marked by monuments.
  - 7.2.D.4. 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.
  - 7.2.D.5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
  - 7.2.D.6. An indication of the type of sewage disposal to be used in the subdivision. Test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
  - 7.2.D.7. 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 Kennebunk, Kennebunkport & Wells Water District shall be submitted indicating there is adequate supply and pressure for the subdivision.
  - 7.2.D.8. The date the plan was prepared, north point, and graphic map scale.
  - 7.2.D.9. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan and adjoining property owners.
  - 7.2.D.10. A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
  - 7.2.D.11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted.
  - 7.2.D.12. The location of all rivers, streams, and brooks within or adjacent to the proposed subdivision.
  - 7.2.D.13. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
  - 7.2.D.14. The land use district in which the proposed subdivision is located and location of any land use district boundaries affecting the subdivision.
  - 7.2.D.15. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

- 7.2.D.16. The location, names, and present widths of existing streets, highways, easements, building lines, parks, and other open spaces on or adjacent to the subdivision.
- 7.2.D.17. The width and location of any streets, public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- 7.2.D.18. The proposed lot lines with approximate dimensions and lot areas.
- 7.2.D.19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- 7.2.D.20. The location of any open space to be preserved and a description of proposed ownership, improvement, and management.
- 7.2.D.21. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn or other cover.
- 7.2.D.22. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
- 7.2.D.23. 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
  - 7.2.D.23.a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled “Hydrogeologic Data for Significant Sand and Gravel Aquifers”, by the Maine Geological Survey, 1985, Map No. 4; or
  - 7.2.D.23.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 a site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and proposed use of shared or common subsurface waste water disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1 below.
- 7.2.D.24. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from Trip Generation Manual, 1991 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- 7.2.D.25. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan.
- 7.2.D.26. If the proposed subdivision is in the direct watershed of Brimstone Pond, and qualifies for the simplified review procedure for phosphorus control, the plan

shall indicate the location and dimensions of vegetative buffer strips or infiltration systems and the application shall include a long-term maintenance plan for all phosphorus control measures.

- 7.2.D.27. For projected to generate more than 400 vehicle trips per day or commercial subdivisions involving 40 or more parking spaces, 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. (amended June 14, 2001)
- 7.2.D.28. If the owner of the parcel to be subdivided has owned the parcel for less than five years, a narrative describing any timber harvesting operations since the owner obtained the parcel. A copy of the Forest Operations Notification and a written determination of the harvest's compliance with Maine Forest Service's Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting certified by a licensed forester shall be submitted. (added December 9, 2004)



## ARTICLE VIII - FINAL PLAN FOR MAJOR SUBDIVISION

### 8.1 Procedure

8.1.A. Within six months after the approval of the Preliminary Plan, the subdivider shall submit an application for approval of the Final Plan. Applications shall be submitted by mail or delivered by hand to the Planning Board in care of the Town Planner. 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. (amended June 14, 2001)

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.

8.1.B. All applications for Final Plan approval for a Major Subdivision shall be accompanied by an application fee in an amount specified by the Board of Selectmen's Schedule of Fees. 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. (amended February 14, 2008)(Amended January 8, 2018)

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

8.1.C.1 Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a Stormwater Management Permit, Construction General Permit, or Wastewater Discharge License is needed. (amended June 14, 2001) (amended July 10, 2003)

8.1.C.2 Maine Department of Human Services, if the subdivider proposes to provide a public water system.

8.1.C.3 Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.

8.1.C.4 U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.

8.1.C.5 The Maine Department of Transportation if a Traffic Movement Permit or highway entrance permit is required. (amended June 14, 2001)

8.1.D. Upon receiving an application for Final Plan approval of a major subdivision, the Town Planner shall issue a dated receipt to the applicant. (amended June 14, 2001)

8.1.E. Within thirty days of the receipt of the Final Plan application, the Town Planner shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Town Planner shall notify the applicant of the specific additional material needed to complete the application. (amended June 14, 2001)

8.1.F. Upon determination that a complete application has been submitted for review, the Town Planner shall issue a dated receipt to the subdivider. (amended June 14, 2001)

- 8.1.G. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan. (amended June 14, 2001)
- 8.1.H. The Board shall determine whether to hold a public hearing on the Final Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time, and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing. (amended June 14, 2001)
- 8.1.I. The Board shall notify the Road Commissioner, School Superintendent and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- 8.1.J. Before the Board grants approval of the Final Plan, the subdivider shall pay any outstanding fees to the town and shall meet the performance guarantee requirements contained in Article XIII. (amended August 1, 2023)
- 8.1.K. Within thirty days from the public hearing or within sixty days of the determination that a complete application had been submitted, 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 have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board. (amended June 14, 2001)

## 8.2. Submissions

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 border line 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. Two white bond paper copies, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office, and three copies of the plan shall be submitted. Nine copies of all information accompanying the plan shall be submitted. In addition, the applicant shall submit either six additional copies of the Plan or seven copies of the Plan(s) reduced to a size of 11 by 17 inches if all pertinent detail can be read. (amended June 14, 2001)

In addition, the applicant shall submit a digital file providing the boundaries of the subdivision, all lots, and any street rights of way in a digital format that is referenced to the UTM (NAD 1983) and that can be imported into a format acceptable for placement into the town's GIS (added June 27, 2002) (amended August 1, 2023)

In addition to all information submitted on the Preliminary Plan, the Final Plan shall include or be accompanied by the following information.  
(amended August 1, 2023)

- 8.2.A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- 8.2.B. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- 8.2.C. An indication of the type of water supply system(s) to be used in the subdivision.
  - 8.2.C.1. When water is to be supplied by an existing public water supply, a written statement from the Kennebunk, Kennebunkport & Wells 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.
  - 8.2.C.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.
- 8.2.D. The date the Plan was prepared, north point, graphic map scale.
- 8.2.E. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
- 8.2.F. The location of any zoning boundaries affecting the subdivision.
- 8.2.G. 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.
- 8.2.H. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 8.2.I. 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.
- 8.2.J. Street plans, meeting the requirements of the Arundel Street Design and Construction Ordinance. (amended June 14, 2001)
- 8.2.K. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices by the Cumberland County SWCD and Maine DEP dated 1991.
- 8.2.L. A storm water management plan, prepared by a registered professional engineer in accordance with Urban Hydrology for Small Watersheds, T.R. 55, 1986 edition, published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site.
- 8.2.M. The width and location of any streets or public improvements or open space shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- 8.2.N. 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, including an executed warranty deed transferring such property upon acceptance by the town. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included. (amended June 14, 2001) (amended June 27, 2002)

8.2.O. The boundaries of any flood hazard areas as depicted on the municipality’s Flood Insurance Rate Map and the 100-year flood elevation, shall be delineated on the plan. (amended June 14, 2001)

8.2.P. If any portion of the proposed subdivision is in the watershed of Brimstone Pond, and does not qualify for the simplified review procedure for phosphorus control, the following shall be submitted or indicated on the plan.

8.2.P.1 A Phosphorus Impact Analysis and Control Plan conducted using the procedures set forth in Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development, published by the Maine Department of Environmental Protection, revised September, 1992. The Analysis and Control Plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide. (amended June 27, 2002)

8.2.P.2 A long-term maintenance plan for all phosphorus control measures.

8.2.P.3 The contour lines shown on the plan shall be at an interval of no less than five feet.

8.2.P.4 Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

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

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

- |  |                        |
|--|------------------------|
| Schools, including busing;             | Recreation Facilities; |
| Street maintenance/snow removal;       | Storm Water Drainage;  |
| Police and Fire Protection;            | Wastewater treatment;  |
| Solid Waste Disposal;    Water supply. |                        |

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

**8.3 Final Approval and Filing**

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

8.3.B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to

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

- 8.3.C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing, and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the Plan to be divided into sections to prevent classroom overcrowding.
- If the expansion, addition, or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition, or purchase.
- 8.3.D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article X. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- 8.3.E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- 8.3.F. Except in the case of a phased unit development plan, failure to complete substantial construction of the subdivision within two (2) years of the date of approval of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect. (Amended Sept. 27, 1998)
- 8.3.G. Except in the case of a phased development, all required improvements shall be completed prior to the issuance of Building Permit(s). In a phased development, Building Permit(s) may be issued upon completion of all required improvements within the phased portion of the development in which the Building Permit(s) is sought.

## **ARTICLE IX - REVISIONS TO APPROVED PLANS**

### **9.1 Procedure**

An applicant for a revision to a previously approved plan shall request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan and final plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed. (amended June 14, 2001) (amended August 1, 2023)

### **9.2 Submissions**

The applicant shall submit a copy of the approved plan, as well as two white bond paper copies, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Office and nine paper copies of the proposed revisions. In addition, the applicant shall submit a digital file of the revised plan and the application in a digital format that is referenced to the UTM (NAD 1983) and that can be imported into a format acceptable for the placement into the town's GIS. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and page or cabinet and sheet on which the original plan is recorded at the registry of deeds. (amended June 14, 2001) (amended August 1, 2023)

### **9.3 Scope of Review**

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

## ARTICLE X - INSPECTIONS AND ENFORCEMENT

### 10.1 Inspection of Required Improvements.

- 10.1.A At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
- 10.1.A.1 Notify the Code Enforcement Officer and Town Planner in writing of the time when (s)he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications, requirements, and conditions of approval shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
  - 10.1.A.2 The town at the developers' expense shall retain a third party inspector to oversee the construction of the infrastructure. The inspector shall invoice the developer directly for the services. The Inspector shall provide periodic reports to the town to insure construction is going as proposed. (added August 1, 2023)
- 10.1.B If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Board, and the subdivider and builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- 10.1.C If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.
- 10.1.D Between November 1 and November 15, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered. (amended June 14, 2001)
- 10.1.E Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- 10.1.F Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the

servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the Municipal Officers.

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

## **10.2 Violations and Enforcement.**

- 10.2.A No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.
- 10.2.B A person, shall not convey, offer, or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- 10.2.C A person shall not sell, lease, or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- 10.2.D No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- 10.2.E Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- 10.2.F No lot in a subdivision may be sold, leased, or otherwise conveyed before the required improvements, including, water supply and fire suppression facilities, storm water management and street upon which the lot fronts, up to and including the entire frontage of the lot are completed in accordance with these regulations. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed and other required improvements are completed in accordance with these regulations. For the purposes of this subsection, a street shall be considered complete when all work has been accomplished according to the approved plan except for the placement of the surface course of pavement. (Amended September 16, 1999) (Amended July 10, 2003)
- 10.2.G Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452. Each day that a violation continues to exist after notification by the Municipality shall constitute a separate offense. (amended June 14, 2001)
- 10.2.H Establishment of Association and Recording of Deeds (Adopted July 10, 2003)
- 10.2.H.1 If the approval of a subdivision is based in part on the creation of a lot owners association, the applicant or developer shall, within 30 days of final approval, establish the association by filing the articles of incorporation and bylaws for the association with the office of the Secretary of State. Evidence of such filing shall be submitted to the Town Planner with 60 days of final approval.
- 10.2.H.2 If the approval of a subdivision is based in part on the creation of a lot owners association, and the plan indicates that common land, open space, streets, or other common facilities are to be owned by the association, the applicant or developer shall record a deed transferring ownership to the association within 45 days of final approval. A copy of the recorded deed shall be submitted to the Town Planner with 60 days of final approval.



## **ARTICLE XI - PERFORMANCE STANDARDS**

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

### **11.1 Pollution**

- 11.1.A The proposed subdivision shall not discharge wastewater into a water body without a license from the Maine Department of Environmental Protection.
- 11.1.B Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface water bodies. When the subdivision is within the watershed of Brimstone Pond, the storm water shall be treated in order to remove excess nutrients.

### **11.2 Sufficient Water**

#### **11.2.A Water Supply**

- 11.2.A.1 Any subdivision located within 1,000 feet of an existing water supply line shall make provisions for connection to the public system.
- 11.2.A.2 When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the subdivider. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Kennebunk, Kennebunkport and Wells Water District and the Arundel Fire Chief.
- 11.2.A.3 When connection to a public water supply system is not required, water supply shall be from individual wells or a private community water system.
  - 11.2.A.3.a Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
  - 11.2.A.3.b Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.
  - 11.2.A.3.c If a central water supply system is provided by the subdivider, the location and protection of the source, the design, construction, and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231). The Comprehensive Planning Committee shall be notified by the Board of the location of a proposed community water supply.

- 11.2.A.3.d All subdivisions shall provide fire protection measures in conformance with applicable portions of Section 12.1.B.2 of the Arundel Land Use Ordinance. (Amended June 14, 2017)

The Board shall require that whenever a fire pond is required, it shall be constructed and approved by the Fire Chief prior to the issuance of building permits for more than 25% of the lots in the subdivision. (Amended September 27, 1998, September 16, 1999)

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

### 11.3 Impact On Existing Water Supplies

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

### 11.4 Soil Erosion

- 11.4.A The proposed subdivision shall prevent soil erosion from entering water bodies, freshwater wetlands, and adjacent properties.
- 11.4.B The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- 11.4.C Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

### 11.5 Traffic Conditions

- 11.5.A In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
- 11.5.A.1 Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
  - 11.5.A.2 Avoid traffic congestion on any street and;
  - 11.5.A.3 Provide safe and convenient circulation on public streets and within the subdivision.
- 11.5.B More specifically, access and circulation shall also conform to the following standards.
- 11.5.B.1 No subdivision shall reduce a street's Level of Service to "E" or below.
  - 11.5.B.2 Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bike paths and traffic controls within existing public streets.

- 11.5.B.3 Accesses to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A warrant analysis to determine the need for a left-turn storage lane shall be done.
- 11.5.B.4 Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use or in non-residential subdivisions when such access will:
- 11.5.B.4.a Facilitate fire protection services as approved by the Fire Chief; or
  - 11.5.B.4.b Enable the public to travel between two existing or potential uses, generally open to the public.
- 11.5.B.5 **Street Names, Signs and Lighting.**
- Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Board.
- 11.5.B.6 **Cleanup**
- Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

## **11.6 Sewage Disposal**

- 11.6.A Sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility with surface discharge.
- 11.6.B The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
- 11.6.B.1 The Site Evaluator shall certify, in writing, that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the Disposal Rules.
  - 11.6.B.2 In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

## **11.7 Impact On Municipality's Ability To Dispose Of Solid Waste**

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

**11.8 Impact On Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas Or Public Access To The Shoreline.****11.8.A Preservation Of Natural Beauty And Aesthetics.**

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

**11.8.B Retention Of Open Spaces And Natural Or Historic Features**

- 11.8.B.1 If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.
- 11.8.B.2 If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan or the Department of Economic and Community Development’s Natural Heritage Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- 11.8.B.3 If any portion of the subdivision is designated a site of historic or prehistoric importance, by the comprehensive plan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.
- 11.8.B.4 The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic make-up of the occupants of the subdivision, and the site characteristics.
- 11.8.B.5 Land reserved for open space purposes shall be of a character, configuration, and location suitable for the particular use intended.
- 11.8.B.6 Reserved open space land may be dedicated to the municipality.
- 11.8.B.7 Where land within the subdivision is not suitable or is insufficient in amount, or where the applicant prefers, or when suggested by the comprehensive plan, a payment in lieu of reservation may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space would otherwise be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

### 11.8.C Preservation of Significant Wildlife Habitat

If any portion of a proposed subdivision lies within:

- 11.8.C.1 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:
  - 11.8.C.1.a habitat for species appearing on the official state or federal lists of endangered or threatened species;
  - 11.8.C.1.b high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
  - 11.8.C.1.c shorebird nesting, feeding and staging areas and seabird nesting islands;
  - 11.8.C.1.d critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or
- 11.8.C.2 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
- 11.8.C.3 or other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. A report prepared by wildlife biologist, selected or approved by the Board shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.
- 11.8.D Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space, with provisions made for continued public access.

### 11.9 Conformance with comprehensive plan, zoning ordinance, and other land use ordinances.

- 11.9.A All lots shall meet the minimum dimensional requirements of the Land Use Ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the Land Use Ordinance.
- 11.9.B. The plan for any subdivision that is located in a rural area as designated in the Future Land Use Plan of the 2005 Comprehensive Plan Update, shall have a note to alert potential lot purchasers that the area has been designated by the town for forestry and agricultural purposes and that residents may be subject to disturbance from noise and odors from the operation of machinery and from livestock or agricultural practices.

### 11.10 Financial and technical capacity.

#### 11.10.A Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

**11.10.B Technical Ability**

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

**11.11 Impact on water quality or shoreline.****11.11.A Maintenance and Use Restrictions for Phosphorus Control Measures**

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

**11.11.A.1 Vegetative Buffer Strips**

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

**11.11.A.1.a Wooded Buffers**

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

**11.11.A.1.a.1 No Disturbance**

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

- 11.11.A.1.a.1.A Buffers shall be inspected annually for evidence of erosion or concentrated flows through or around the buffer. All eroded areas must be seeded and mulched. A shallow stone trench must be installed as a level spreader to distribute flows evenly in any area showing concentrated flows.
- 11.11.A.1.a.1.B All existing undergrowth (vegetation less than four feet high), forest floor duff layer, and leaf litter must remain undisturbed and intact, except that one winding walking path, no wider than six feet, is allowed through the buffer. This path shall not be a straight line to the pond or tributary and shall remain stabilized.
- 11.11.A.1.a.1.C Pruning of live tree branches that do not exceed twelve feet above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- 11.11.A.1.a.1.D No cutting is allowed of trees except for normal maintenance of dead, wind blown, or damaged trees.
- 11.11.A.1.a.1.E Buffers shall not be used for all-terrain vehicle or vehicular traffic.

### 11.11.A.2 Limited Disturbance

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

- 11.11.A.2.a There shall be no cleared openings and an evenly distributed stand of trees and other vegetation shall be maintained.
- 11.11.A.2.b Activity within the buffer shall be conducted so as to minimize disturbance of existing forest floor, leaf litter and vegetation less than four feet in height. Where the existing ground cover is disturbed and results in exposed mineral soil, that area shall be immediately stabilized to avoid soil erosion.
- 11.11.A.2.c Removal of vegetation less than four feet in height is limited to that necessary to create a winding foot path no wider than six feet. This path shall not be a straight line to the pond or a tributary. The path must remain stabilized.
- 11.11.A.2.d Pruning of live tree branches that do not exceed 12 feet in height above the ground level is permitted provided that at least the top two-thirds of the tree canopy is maintained.
- 11.11.A.2.e Where the removal of storm-damaged, diseased, unsafe, or dead trees results in a cleared opening being created, those openings shall be replanted with native trees at least three feet in height unless existing new tree growth is present.
- 11.11.A.2.f Buffers shall not be used for all terrain vehicle or vehicular traffic.

### 11.11.B Non-Wooded Buffers

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

### 11.11.C Infiltration Systems

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

#### 11.11.D Wet Ponds

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

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

### 11.12 Impact On Ground Water Quality Or Quantity

#### 11.12.A Ground Water Quality

- 11.12.A.1 When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
- 11.12.A.1.a A map showing the basic soils types.
  - 11.12.A.1.b The depth to the water table at representative points throughout the subdivision.
  - 11.12.A.1.c Drainage conditions throughout the subdivision.
  - 11.12.A.1.d Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  - 11.12.A.1.e An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance.
  - 11.12.A.1.f A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- 11.12.A.2 Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- 11.12.A.3 No subdivision with a residential density of greater than one dwelling unit per two acres shall increase any contaminant concentration in the ground water to more than the Primary Drinking Water Standards. No subdivision with a residential density of one dwelling unit per two acres or less shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. In addition, the standards of Section 6.5.A.3 of the Land Use Ordinance shall be met if the subdivision is within the Aquifer Protection Overlay District. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards. (amended June 14, 2001)
- 11.12.A.4 If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.



- 11.12.A.5 If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
- 11.12.A.6 Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.
- 11.12.B Ground Water Quantity.
- 11.12.B.1 Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
- 11.12.B.2 A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

### **11.13 Floodplain Management**

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

- 11.13.A All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- 11.13.B Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- 11.13.C The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

### **11.14 Identification Of Freshwater Wetlands**

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

### **11.15 Storm Water Management**

- 11.15.A Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through management system of swales, culverts, underdrains, and storm drains in conformance with the policies of the comprehensive plan. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains, except where retention basins are designed or ground water recharge is desirable.
- 11.15.B Where a subdivision is traversed by a stream, river, or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales,

culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the municipality allowing maintenance and improvement of the system.

- 11.15.C All components of the storm water management system shall be designed to limit peak discharge rates to predevelopment levels for the 2-year, 10-year and the 25-year frequency, 24-hour duration storms, based on rainfall data for Portland, Maine. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.
- 11.15.D Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity.

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

- 11.16.A All open space common land, facilities and property shall be owned by:
- 11.16.A.1 The owners of the lots or dwelling units by means of a lot-owners association;
  - 11.16.A.2 An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
  - 11.16.A.3 The municipality.
- 11.16.B Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.
- 11.16.C The common land or open space shall be shown on the Final Plan with appropriate notations on the plan to indicate that:
- 11.16.C.1 It shall not be used for future building lots; and
  - 11.16.C.2 Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
- 11.16.D The final plan application shall include the following:
- 11.16.D.1 Covenants for mandatory membership in the lot owner's association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
  - 11.16.D.2 Draft articles of incorporation of the proposed lot owner's association as a not-for-profit corporation; and
  - 11.16.D.3 Draft by-laws of the proposed lot owner's association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance, and replacement of common facilities.
- 11.16.E In combination, the documents referenced in paragraph D above shall provide for the following:

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

**11.17 Compliance with Timber Harvesting Standards**

- 11.17.A Timber on the parcel shall not have been harvested in violation of the Maine Forest Service's Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting ([http://www.state.me.us/doc/mfs/fpm/liq/docs/final/final\\_liquidation.pdf](http://www.state.me.us/doc/mfs/fpm/liq/docs/final/final_liquidation.pdf)) within the five-year period preceding the submission of the application for subdivision approval. If a violation of these rules has occurred, the applicant shall submit evidence that 5 years have elapsed since the date the landowner under whose ownership the harvest occurred acquired the parcel. (added December 9, 2004)

## ARTICLE XII - DESIGN GUIDELINES

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

### 12.1 Sufficient Water

#### 12.1.A Well Construction

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

#### 12.1.B Fire Protection (Amended September 20, 2022)

- 12.1.B.1 Fire hydrants connected to a public water supply system shall be located no further than 500 feet from any building or an alternative fire protection method will be required.
- 12.1.B.2 Alternative Water Supply Required:

All new residential subdivisions shall be required to provide one of the following:

- 1) Install a residential fire sprinkler system in all residential units in conformance with the standards of NFPA 13D;
- 2) Where HUD certified homes are proposed in a development, the developer shall install a polycarbonate cistern with a minimum 15,000 gallon capacity on site and provide Fire Department vehicular access to the cistern. Cisterns shall be maintained by the development and shall provide the fire department yearly record of maintenance and water capacity for the cistern.

### 12.2 Traffic Conditions

#### 12.2.A Access Control

- 12.2.A.1 Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the arterial street.
- 12.2.A.2 Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
- 12.2.A.3 *Subdivision Access Design For Subdivisions Entering Onto Arterial Streets*

When the access to a subdivision is a street, the street design and construction standards of Section B below shall be met. Where there is a conflict between the standards in this section and the standards of Section B, the stricter or more stringent shall apply.

12.2.A.3.a **General**

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

12.2.A.3.a.1 **Low Volume Access:** An access with 50 vehicle trips per day or less.

12.2.A.3.a.2 **Medium Volume Access:** Any access with more than 50 vehicle trips per day but less than 200 peak hour vehicle trips per day.

12.2.A.3.a.3 **High Volume Access:** Peak hour volume of 200 vehicle trips or greater.

12.2.A.3.b **Sight Distances**

Accesses shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the carbine or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/4 feet above the pavement. The required sight distances are listed below for various posted speed limits.

12.2.A.3.b.1 **Two Lane Roads**

A minimum sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.

12.2.A.3.b.2 **Four Lane Roads**

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

- 12.2.A.3.b.2.a Upon turning left or right to accelerate to the operating speed of the street without causing approaching vehicles to reduce speed by more than 10 miles per hour, and
- 12.2.A.3.b.2.b Upon turning left, to clear the near half of the street without conflicting with vehicles approaching from the left.

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

12.2.A.3.c **Vertical Alignment**

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3 percent or less for at least 75 feet. The maximum grade over the entire length shall not exceed 10 percent.

12.2.A.3.d **Low Volume Accesses**

12.2.A.3.d.1 Skew Angle

Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

12.2.A.3.d.2 Curb Radius

The curb radius shall be between 10 feet and 15 feet, with a preferred radius of 10 feet.

12.2.A.3.d.3 Access Width

The width of the access shall be between 20 feet and 24 feet, with a preferred width of 20 feet.

12.2.A.3.e **Medium Volume Accesses**

12.2.A.3.e.1 Skew Angle

Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

12.2.A.3.e.2 Curb Radius

Curb radius will vary depending if the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one way accesses, the

curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.

12.2.A.3.e.3 Width

On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.

12.2.A.3.e.4 Curb-Cut Width

On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

12.2.A.3.f ***High Volume Accesses***

12.2.A.3.f.1 Skew Angle

High Volume Accesses shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

12.2.A.3.f.2 Curb Radius

Without channelization islands for right-turn movements into and out of the site, the curb radii shall be between 30 feet and 50 feet. With channelization islands, the curb radii shall be between 75 feet and 100 feet.

12.2.A.3.f.3 Curb Cut Width

Without channelization, curb-cut width shall be between 106 feet and 162 feet with a preferred width of 154 feet. With channelization, the curb-cut width shall be between 196 feet and 262 feet with a preferred width of 254 feet.

12.2.A.3.f.4 Medians

Entering and exiting accesses shall be separated by a raised median which shall be between 6 feet and 10 feet in width. Medians separating traffic flows shall be no less than 25 feet in length, with a preferred length of 100 feet.

12.2.A.3.f.5 Width

Access widths shall be between 20 feet and 26 feet on each side of the median, with a preferred width of 24 feet. Right turn only lanes established by a channelization island shall be between 16 feet and 20 feet, with a preferred width of 20 feet.

12.2.A.3.f.6 ***Signs***

Appropriate traffic control signage shall be erected at the intersection of the access and the street and on medians and channelization islands.

12.2.A.3.g ***Access Location and Spacing***

12.2.A.3.g.1 Minimum Corner Clearance

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

**MINIMUM STANDARDS FOR CORNER CLEARANCE**

Minimum Corner Clearance (feet)

<u>Access Type</u>	Signalized Intersection	Unsignalized Intersection
Low Volume	150	50
Medium Volume	150	50
High Volume	500	250

12.2.A.3.g.2 **Access Spacing**

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

**MINIMUM ACCESS SPACING**

Access Type(feet)	Minimum Spacing to Property Line (Dpl) <sup>1</sup> (feet)	Minimum Spacing to Adjacent Access by Access Type <sup>2</sup> (Dsp) <sup>3</sup>		
		Medium (feet)	High w/o RT* (feet)	High w/RT** (feet)
Low Volume	5			
Medium Volume	10	75		
High Volume(w/o RT)*75	75	75	150	
High Volume(w/ RT)**75	75	75	250	500

- 1 Dpl measured from point of tangency of access to projection of property line on roadway edge.
- 2 For two more accesses serving a single parcel, or from a proposed access from an existing access.
- 3 Dsp measured from point of tangency of access to point of tangency of adjacent access.
- \* High volume access without right turn channelization
- \*\* High Volume access with right turn channelization

12.2.A.3.h **Number of Accesses**

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



12.2.A.3.h.1 No low volume traffic generator shall have more than one two-way access onto a single roadway.

12.2.A.3.h.2 No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.

**12.2.A.3.i Construction Materials/Paving**

12.2.A.3.i.1 All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.

12.2.A.3.i.2 All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses regardless of access volume shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

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

**12.2.B.1 General Requirements**

12.2.B.1.a The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with Street Design and Construction Ordinance. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement. (amended June 14, 2001)

12.2.B.1.b Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The construction drawings shall meet the requirements of Section 1.6.1 of the Street Design and Construction Ordinance. (amended June 14, 2001)

12.2.B.1.c Upon receipt of plans for a proposed public street the Board shall forward one copy to the Municipal Officers, the Road Commissioner, and the Municipal Engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the Municipal Engineer for review and comment.

12.2.B.1.d Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner or the Maine Department of Transportation, as appropriate.

12.2.B.1.e Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan:

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet the municipal street design and construction standards.”

### 12.2.B.2 Street Design Standards

12.2.B.2.a Proposed streets shall meet the standards of Section 1.6.2 of the Street Design and Construction Ordinance. (amended June 14, 2001)

12.2.B.2.b Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.

12.2.B.2c [repealed June 14, 2001]

12.2.B.2.d Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of the Zoning Ordinance. When such widening or realignment is included in the municipality's Capital Investment Plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

12.2.B.2.e Developments containing over 25 dwelling units or which generate average daily traffic (ADT) of over 250 trips per day shall have at least two street connections either with existing public streets, or with streets shown on an approved subdivision plan or site plan for which a performance guarantee has been filed and accepted. Commercial subdivisions or commercial projects generating 250 trips or more per day and with a vehicular connection to Route 1, Route 111, or Log Cabin Road may be exempted from providing two connections to Route 1, Route 111, or Log Cabin Road. (Amended July 25, 2019)

12.2.B.2.f [repealed June 14, 2001]

12.2.B.2.g [repealed June 14, 2001]

12.2.B.2.h Dead End Streets

The Board may require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty foot easement in line with the street to provide continuation of the road where future subdivision is possible. The Board may, upon recommendation by the Road Commissioner, require the cul-de-sac radii to be larger than sixty feet, but no greater than a maximum of 75 feet. (Amended September 27, 1998; June 14, 2001)

12.2.B.2.i [repealed June 14, 2001]

### 12.2.B.3 Portland Cement Concrete Sidewalks

12.2.B.3.a The subbase aggregate shall be no less than twelve inches thick after compaction.

12.2.B.3.b The Portland Cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.

12.2.C [Repealed June 14, 2001]

12.2.D [Repealed June 14, 2001]

## **12.3 Impact On Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas Or Public Access To The Shoreline**

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

- 12.3.A.1 Unless located in areas designated as a growth area in the comprehensive plan, a subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
- 12.3.A.2 Unless located in areas designated as a growth area in the comprehensive plan, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of building when viewed from existing public streets.
- 12.3.A.3 When a proposed subdivision street traverses open fields, the plans shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

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

- 12.3.B.1 The subdivision shall reserve an area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the needs identified in the comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision and the policies of the plan for meeting those needs; the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the type of development and the passive and active recreational needs of potential residents in the subdivision; and the density or lot sizes of the development.
- 12.3.B.2 Subdivisions with an average density of more than three dwelling units per acre shall provide no less than fifty percent of the open space as usable open space to be improved for ball fields, playgrounds, or other similar active recreation facility. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry.
- 12.3.B.3 Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
- 12.3.B.4 Where the Board determines that suitable land area is not available in the immediate subdivision, the Board may allow for a payment in lieu of fee be made to the town. Such fee shall be based on the average market value per acre of the land at the time the plan is proposed. Payments in lieu shall be deposited in an interest bearing town account dedicated for the purposes of

acquiring/developing open space, recreational or similar activities for the benefit of developments in the area.

### 12.3.C **Preservation of Significant Wildlife Habitat**

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

#### 12.3.C.1 ***Protection of Significant Wildlife and Important Habitat Areas.***

12.3.C.1.a [repealed June 14, 2001]

12.3.C.1.b [repealed June 14, 2001]

12.3.C.1.c There shall be no cutting of vegetation within the strip of land extending 75 feet inland from the normal high-water mark of a shoreland, except to remove safety hazards, when the following habitat areas fall under the jurisdiction of the state's Mandatory Shoreland Zoning Act:

12.3.C.1.c.1 habitat for species appearing on the official state or federal lists of endangered or threatened species;

12.3.C.1.c.2 [repealed June 14, 2001]

12.3.C.1.c.3 high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;

12.3.C.1.c.4 [repealed June 14, 2001]

12.3.C.1.c.5 other important habitat areas identified in the comprehensive plan including coastal wildlife concentration areas.

12.3.C.1.d This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

#### 12.3.C.2 ***Protection Of Wetlands Rated High Or Moderate For Waterfowl***

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

#### 12.3.C.3 ***Protection of Deer Wintering Areas***

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

#### 12.3.C.4 ***Important Wildlife Habitats***

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

**12.4 Storm Water Management Design Guidelines**

- 12.4.A Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty feet wide, conforming substantially with the lines of existing natural drainage.
- 12.4.B The minimum pipe size for any storm drainage pipe shall be fifteen inches for driveway entrances and eighteen inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.
- 12.4.C Catch basins shall be installed where necessary and located at the curb line.

**12.4.D Storm Drainage Construction Standards**

**12.4.D.1 Materials**

- 12.4.D.1.a Storm drainage pipes shall conform to the requirements of MDOT materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.
- 12.4.D.1.b Where the storm drainage pipe is to be covered by ten feet or more of fill material, pipe material with a fifty year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinylchloride (PVC) pipe, and corrugated aluminum alloy pipe.
- 12.4.D.1.c Where storm drainage pipe may come into contact with salt water, corrugated aluminum alloy pipes shall be used.

**12.4.D.2 Pipe Gauges**

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

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

- 12.4.D.3 Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Municipal Engineer.
- 12.4.D.4 Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.

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

**12.5 Impact on water quality or shoreline**

**12.5.A Phosphorous Export**

- 12.5.A.1 When a proposed subdivision is within the direct watershed of Brimstone Pond, buffers strips shall be provided in accordance with following table. Buffer strips shall be provided on the downhill side of all lots, along all tributaries to the pond and along the pond. The minimum required width of buffer strips are designated in the table below and depend on the size of the lot, the hydrologic soil group, and whether deed restrictions are proposed to limit the area which may be cleared on each lot. (amended June 14, 2001)

Lot Size	H.S.G	Buffer Width (ft) per lot	
		Clearing Restricted to 12,500 sq. ft.	No Clearing Restrictions
< 1 Acre	A	75 ft.	85 ft.
	B	130 ft.	150 ft.
	C	N/A	N/A
	D	N/A	N/A
1 < 2.0 Ac	A	25 ft.	25 ft.
	B	25 ft.	55 ft.
	C	55 ft.	190 ft.
	D	200 ft.	N/A
2 < 3.0 Ac	A	25 ft.	25 ft.
	B	25 ft.	25 ft.
	C	25 ft.	50 ft.
	D	25 ft.	200 ft.

H.S.G. is the Hydrologic Soil Group

All lots 3 acres and larger shall provide a minimum 25 foot buffer.

**12.5.B. Shoreland Buffer Strips**

Within a strip of land extending one-hundred (100) feet inland from the normal high-water line of Brimstone Pond or any tributary to Brimstone Pond, and seventy-five (75) feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The deeds to any lots which include any such land shall contain the following restrictions:

- 12.5.B.1. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. However, a footpath not to exceed ten (10) feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to Brimstone Pond, or a tributary to Brimstone Pond, the width of the foot path shall be limited to six (6) feet.
- 12.5.B.2. Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees and other vegetation is maintained. No more than 40% of the total volume of trees four (4) inches or more in diameter,

measured at 4 ½ feet above ground level may be removed in any ten (10) year period.

12.5.B.3. In order to protect water quality and wildlife habitat, adjacent to Brimstone Pond, and tributaries to the pond, existing vegetation under three (3) feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.

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

## **12.6 Blocks.**

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

## **12.7 Lots.**

12.7.A. Wherever possible, side lot lines shall be perpendicular to the street.

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

12.7.C. If a lot on one side of a stream, tidal water, road, or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.

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

## **12.8 Utilities.**

Utilities serving lots within a proposed subdivision shall be installed underground.  
(Amended September 27, 1998; June 14, 2001, April 5, 2022)

## **12.9 Monuments**

**12.9.A** Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.

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

- 12.9.C** Stone or concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, ½ inch deep shall locate the point or points described above.
- 12.9.D** All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as recommended by the Maine Board of Registration of Land Surveyors.



## **ARTICLE XIII - PERFORMANCE GUARANTEES**

### **13.1 Types of Guarantees.**

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

- 13.1.A.** Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- 13.1.B.** A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers, or Town Manager;
- 13.1.C.** An irrevocable letter of credit (see Appendix B for a sample) from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers, or Town Manager; or
- 13.1.D.** A conditional agreement limiting the number of units built or lots sold until all required improvements have been constructed.

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

### **13.2 Contents of Guarantee.**

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

### **13.3 Escrow Account.**

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

### **13.4 Performance Bond.**

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

### **13.5 Letter of Credit.**

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.

### **13.6 Conditional Agreement.**

The Board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that no more than two (2) lots may be sold or built upon until either: (Amended Sept. 27, 1998)

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

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

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

### **13.7 Phasing of Development.**

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

### **13.8 Release of guarantee.**

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town Engineer and Road Commissioner, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

### **13.9 Default.**

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

### **13.10 Improvements Guaranteed.**

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

## **ARTICLE XIV - WAIVERS**

- 14.1** Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in the regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the Subdivision Statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or these regulations. (amended June 14, 2001)
- 14.2** Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Land Use Ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the Subdivision Statute have been or will be met by the proposed subdivision. (amended June 14, 2001)
- 14.3** In granting waivers to any of these regulations in accordance with Sections 14.1 and 14.2, the Board shall require such conditions as will assure the purposes of these regulations are met.
- 14.4 Waivers to be shown on Final Plan.**

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

## **ARTICLE XV - APPEALS**

**15.1** An aggrieved party may appeal any decision of the Board under these regulations to York County Superior Court, within thirty days of the date of the decision.