

LEBANON PLANNING BOARD

SUBDIVISION REGULATIONS

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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.
- 1.4** To assure the comfort, convenience, safety, health and welfare of the people of the Town of Lebanon;
- 1.6** To assure a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures.
- 1.7** To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- 1.8** To promote the development of an economically sound and stable community.

ARTICLE II - AUTHORITY AND ADMINISTRATION

2.1 Authority.

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

2.2 Administration.

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

2.3 Amendments.

- A. These regulations may be amended by:
 - 1. The Legislative Body of the Town of Lebanon.
 - 2. The Planning Board if the Legislative Body has not adopted or amended the standards.
- B. A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

2.4 Conflict with Ordinances.

Should any provision of these regulations conflict with any provision of an ordinance enacted by the Legislative Body, the provision of the ordinance shall prevail. Should any provision of these regulations conflict with another provision of these regulations, the more restrictive provision shall prevail.

ARTICLE III - DEFINITIONS

In general, words and terms used in these regulations shall have their customary dictionary meanings. Words or terms defined below shall have the following meanings:

Affordable Housing: Housing units which will meet the definition of affordable housing in Chapter 100 of the Rules of the Department of Economic and Community Development.

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 Housing: A subdivision in which the lot sizes are reduced below those normally required in the zoning 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 thirty percent the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

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 a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. 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 register land surveyor showing where the drainage divide lies.

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

Dwelling Unit: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, facilities include; 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.

Farmland: A parcel consisting of five (5) or more acres of land that is (1) classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or (2) used for the production of agricultural products as defined in Title 7 M.R.S.A. Sec. 152, subsection 2.

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

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

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

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

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

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

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

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

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

Planning Board: The Planning Board of the Town of Lebanon.

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

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

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

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:

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality.

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

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

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

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

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

Subdivision: “Subdivision” means the division of a tract or parcel of land into 3 or more lots within any 5–year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. *See Appendix A for the full text of the state statute from 30-A MRSA, Chapter II, Subchapter IV.*

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

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

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

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

ARTICLE IV - ADMINISTRATIVE PROCEDURE

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting 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 Secretary. Applicants who attend a meeting but who are not on the Board's agenda may be heard only if a majority of the Board so votes.

ARTICLE V - PRE-APPLICATION MEETING, SKETCH PLAN AND SITE INSPECTION

5.1 Purpose.

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

5.2 Procedure.

- A. The applicant shall present the number of copies of all submissions as requested by the Secretary and all accompanying information and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the board may ask questions and make suggestions to be incorporated by the subdivider into the application.
- C. The date of the on-site inspection is selected.
- D. The applicant shall be given a copy of the fee schedule.

5.3 Submission.

The Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the subdivider and the Board for site conditions 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:

- A. Copy of 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.
- B. Copy of that portion of the county Soil Survey covering the subdivision, showing the outline of the proposed subdivision.
- C. Copy of the deed.
- D. Copy of the application.

5.4 Contour Interval and On-Site Inspection.

Within thirty days of the pre-application meeting, the Board will schedule an on-site inspection. The Board may exercise the option not to hold an onsite inspection due to adverse conditions. The applicant shall place flagging at the centerline of any proposed streets and at the approximate intersections of street centerlines and lot corners prior to the on-site inspection. After the on-site inspection the Board shall inform the applicant of the results of the on-site inspection and request contour interval as needed.

5.5 Rights not Vested.

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

ARTICLE VI - MINOR SUBDIVISIONS

6.1 General.

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

6.2 Procedure.

- A. Within six months after the on-site inspection, the subdivider shall notify the Board of his intentions. The applicant should notify the Secretary at least ten days prior to the regular meeting that the applicant wishes to be placed on the agenda. The applicant shall present the number of copies of all submissions as requested by the Secretary at the time; the applicant requests an appointment with the Board and bring copies of any submittals to the meeting. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for Final Plan approval for a Minor Subdivision shall be accompanied by an application fee and a review escrow fee in an amount according to Appendix C.
- C. The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the Final Plan. Failure to attend the meeting to present the Final Plan shall result in a delay of the Board's receipt of the plan until the next meeting which the applicant attends.
- D. Upon receipt of an application for approval of a minor subdivision, the Board shall:
 - 1. Issue a dated receipt to the applicant.
 - 2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
 - 3. Notify the Secretary and the review authority of the neighboring municipalities if any portion of the subdivision includes or crosses the municipal boundary.
- E. Within thirty days of the receipt of the application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Secretary shall notify the applicant of the specific additional material needed to complete the application.
- F. Upon a determination that a complete application has been submitted for review, the Secretary shall notify the applicant in writing of that determination. The Board shall determine whether to hold a public hearing on the Final Plan application.
- G. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant and all abutters and shall be posted in three locations in town
- H. Within thirty days from the public hearing or within sixty days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact,

and conclusions relative to the criteria contained Title 30-A M.R.S.A., §4404 and the standards in these regulations. If the Board finds that all 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.

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

- A. Application form.
- B. Location Map. The Location Map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:
 - 1. Existing subdivisions located within 0.5 miles (2,640 feet) linear distance of the boundary of the proposed subdivision.
 - 2. Locations and names of existing streets.
 - 3. 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.
 - 4. The location of existing cemeteries within the proposed subdivision.
 - 5. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.
- C. Final Plan. The subdivision plan for a minor subdivision shall consist of two reproducible stable based transparencies to be recorded at the Registry of Deeds 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 and subdivider.
- D. The application for approval of a Minor Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.
 - 1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
 - 2. Verification of right, title, or interest in the property.
 - 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by magnetically detectable monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

4. A copy of the most recently recorded deed for the parcel, as well as copies of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property. If a property is currently registered in the State of Maine's Current Use Taxation program as Tree Growth, Agriculture or Open Space, this must be documented.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. Indication of the type of sewage disposal to be used in the subdivision. Test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. Indication of the type of water supply system(s) to be used in the subdivision.

When water is to be supplied by public water supply, a written statement from the Rochester Water Department shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the 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 department approving the design of the extension shall be submitted.

8. The date the Plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and adjoining property owners including those across the street.
10. A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, and other essential existing physical features. The plan shall indicate the area where any restrictions are to be placed on clearing of existing vegetation.
12. The location of all rivers and streams within or adjacent to the proposed subdivision. If the proposed subdivision is in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level.
14. The location and size of existing and proposed water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
15. Streets and Access.
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.
16. The location of any open space to be preserved and a description of proposed improvements and its management.

17. The proposed lot lines with approximate dimensions and lot areas, as well as boundaries showing the maximum extent of driveways, building envelopes, septic disposal areas and twenty-five (25) foot setback lines around all identified wetlands.
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the town of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the town, written evidence that the Board of Selectmen are satisfied with the legal sufficiency of the written offer to convey title shall be included.
19. 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 town's Flood Hazard Boundary Map, shall be delineated on the plan.

6.4 Final Approval and Filing.

- A. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board and the developer shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denials. Upon the signing of the plan, the developer shall pay the final fee. The Board shall retain four signed copies. 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. . All plans are to be recorded on white paper with a minimum weight of 20 pounds. The developer shall return, four signed and recorded copies as well as one copy per Board member if requested. Upon receipt of the signed recorded plan, the remaining escrow funds will be returned to the developer. One copy of the signed recorded plan shall be retained by the Board as part of its permanent records. One copy of the signed recorded plan shall be forwarded to the Tax Assessor. One copy of the signed recorded plan shall be forwarded to the Code Enforcement Officer. One copy of the signed and recorded plan shall be forwarded to the Emergency 911 coordinator.
- 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.
- D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article X. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the town, approval of the Plan shall not constitute an acceptance by the town of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

- F. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within three years as in major of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

ARTICLE VII - PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1 Procedure.

- A. Within six months after the on-site inspection, the subdivider shall notify the Board of his intentions. The applicant should notify the Planning Board Secretary at least ten days prior to the regular meeting that the applicant wishes to be placed on the agenda. The applicant shall present the number of copies of all submissions as requested by the Secretary at the time; the applicant requests an appointment with the Board and bring copies of any submittals to the meeting. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for preliminary plan approval for a Major Subdivision shall be accompanied by an application fee and review escrow fee according to the fee schedule in Appendix C.
- C. Upon receipt of an application for Preliminary Plan approval of a major subdivision, the Board shall:
 1. Issue a dated receipt to the applicant.
 2. Notify in writing all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
 3. Notify the Secretary and the review authority of the neighboring municipalities if any portion of the subdivision includes or crosses the municipal boundary.
- D. The applicant, or his duly authorized representative, shall attend the meeting of the Board to present the preliminary plan application.
- E. Within thirty days of the receipt of the Preliminary Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Secretary shall notify the applicant of the specific additional material needed to complete the application.
- F. Upon determination that a complete application has been submitted for review, the Secretary shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the preliminary plan application.
- G. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be mailed to the applicant and all abutters and shall be posted in three locations in town.
- H. Within thirty days from the public hearing or within sixty days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- I. When granting approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:

1. The specific changes which it will require in the Final Plan;
 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
 3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the Final Plan.
- J. Approval of a preliminary plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

7.2 Submissions.

The preliminary plan application shall consist of the following items.

- A. Application form.
- B. Location Map.

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

1. Existing subdivisions located within 0.5 miles (2,640 feet) linear distance of the boundary of the proposed subdivision.
 2. Locations and names of existing streets.
 3. 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.
 4. The location of existing cemeteries within the proposed subdivision.
 5. All farmland within the proposed subdivision had been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.
- C. Preliminary Plan. The preliminary plan shall be submitted in enough copies for each member of the Board and one file copy of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. In addition, nine copies of all accompanying information shall be available to each Board member at the regular meeting.
- D. The application for preliminary plan approval shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether they require additional information to be submitted, where it finds necessary in order to

determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
2. Verification of right, title, or interest in the property.
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by magnetically detectable monuments.
4. A copy of the most recently recorded deed for the parcel, as well as copies of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property. If a property is currently registered in the State of Maine's Current Use Taxation program as Tree Growth, Agriculture or Open Space, this must be documented.
5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
6. Indication of the type of sewage disposal to be used in the subdivision. Test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. Indication of the type of water supply system(s) to be used in the subdivision.

When water is to be supplied by public water supply, a written statement from the Rochester Water Department shall be submitted indicating there is adequate supply and pressure for the subdivision.
8. The date the Plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan and adjoining property owners.
10. A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, and other essential existing physical features. The plan shall indicate the area where any restrictions are to be placed on clearing of existing vegetation.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision.
13. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
14. The location and size of existing and proposed water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
15. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
16. The proposed lot lines with approximate dimensions and lot areas, as well as boundaries showing the maximum extent of driveways, building envelopes, septic disposal areas and

twenty-five (25) foot setback lines around all identified wetlands.

17. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
18. The location of any open space to be preserved and a description of proposed ownership, improvement and management.
19. 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 town's Flood Hazard Boundary Map, shall be delineated on the plan.
20. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when:
 - 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. 3; or
 - b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

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

21. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from Trip Generation Manual, 1987 edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
22. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

ARTICLE VIII - FINAL PLAN FOR MAJOR SUBDIVISION

8.1 Procedure.

- A. Within six months after the on-site inspection, the subdivider shall notify the Board of his intentions. The applicant should notify the Planning Board Secretary at least ten days prior to the regular meeting that the applicant wishes to be placed on the agenda. The applicant shall present the number of copies of all submissions as requested by the Secretary at the time; the applicant requests an appointment with the Board, of any submittals to the meeting. 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.

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 plans before other agencies, and that municipal ordinances or regulations that may impact on the proposed development have not been amended.

- B. All applications for final approval for a subdivision shall be accompanied by the final fee as indicated in Appendix C, payable by check to the municipality.
- C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where applicable:
1. From the Maine Department of Environmental Protection, under the Site Location of Development Act, if the Board is unsure whether a permit or license from the state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations or laws.
 2. From the Maine Department of Environmental Protection, under the Natural Resources Protection Act or if a storm water management permit or a wastewater discharge license is needed.
 3. From the Maine Department of Human Services, if the applicant proposes to provide a public water system.
 4. From the Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized.
 5. From the U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
 6. From the Maine Department of Transportation Traffic Movement Permit and /or Highway Entrance/Driveway Access Management Permit.
 7. From the Maine Department of Environmental Protection Storm Water permit, pursuant to Chapter 500 and 502 regulations.
- D. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic places, in accordance with Section 7.2, D.27, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission prior to submitting the final plan application.

- E. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan. Within thirty days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Secretary shall notify the applicant of the specific additional material needed to complete the application.
- F. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application. When a subdivision is within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Secretary and the Planning Board of the adjacent municipality involved at least ten days prior to the hearing.
- G. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining that the Board 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. A copy of the notice shall be mailed to the applicant and all the abutters.
- H. The Secretary shall notify the Road Commissioner, School Superintendent, Fire Chief, Transfer Station, Selectboard and Code Enforcement Officer 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.
- I. No permits may be issued, nor lots sold, nor any construction activity commence until the applicant satisfies the performance guarantee requirements contained in Article 13.
- J. If the subdivision is located in more than one municipality, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the site, pursuant to 30-A M.R.S.A. 4403.
- K. Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of these regulations. If the Board finds that all the criteria of the Statute and the standards of these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the criteria of the Statute or the standards of these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

8.2 Submissions.

Final Plan. The final plan for a major subdivision shall consist of two reproducible stable based transparencies to be recorded at the Registry of Deeds 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 and subdivider.

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

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- B. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- C. Indication of the type of sewage disposal to be used in the subdivision.
- D. Indication of the type of water supply system(s) to be used in the subdivision.

When water is to be supplied by the Rochester Water Department, a written statement from the department shall be submitted indicating the department 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.

- E. The date the Plan was prepared, north point, graphic map scale.
- F. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan including those across the street.
- 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.
- H. The location and size of existing and proposed water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 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.
- J. Street plans, meeting the requirements of Section 12.2.B.2.
- K. An erosion and sedimentation control plan prepared in accordance with the *Environmental Quality Handbook*, 1986 edition, published by the Maine Soil and Water Conservation Commission. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction and that no driveway or house construction will occur on sites with slopes steeper than 10%.
- 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. The Board may waive submission of the storm water management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 10% of the area of the subdivision.

- M. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the town of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the tow, written evidence that the Board of Selectmen are satisfied with the legal sufficiency of the written offer to convey title shall be included.
- N. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the town's Flood Hazard Boundary Map, shall be delineated on the plan.
- O. If any portion of the proposed subdivision is in the direct watershed of a great pond, and does not qualify for the simplified review procedure for phosphorus control, the following shall be submitted or indicated on the plan.
 - 1. A Phosphorus Impact Analysis and Control Plan conducted using the procedures set forth in *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, published by the Maine Department of Environmental Protection, revised 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*.
 - 2. A long-term maintenance plan for all phosphorus control measures.
 - 3. The contour lines shown on the plan shall be at an interval of five feet or less.
 - 4. Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.
- P. 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.
- Q. The location of existing cemeteries within the proposed subdivision.
- R. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

8.3 Final Approval and Filing.

- A. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board and the developer shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denials. Upon the signing of the plan, the developer shall pay the final fee. The Board shall retain three (3) signed copies. 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. All plans are to be recorded on white paper with a minimum weight of 20 pounds. The developer shall return, four signed and recorded copies as well as one copy per Board member if requested. Upon receipt of the signed recorded plan, the remaining escrow funds will be returned to the developer. One copy of the signed recorded plan shall be retained by the

Board as part of its permanent records. One copy of the signed recorded plan shall be forwarded to the Tax Assessor. One copy of the signed recorded plan shall be forwarded to the Code Enforcement Officer. One copy of the signed and recorded plan shall be forwarded to the Emergency 911 coordinator.

- 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.
- D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article X. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the town, approval of the Plan shall not constitute an acceptance by the town of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within three years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

8.4 Performance Guarantees

A. Types of Guarantees

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking in to account the time-span of the construction schedule and the inflation rate for construction costs. In addition, the applicant shall deposit with the Town Treasurer or Planning Board Secretary an amount equal to a minimum of 6% of the estimated costs of construction of streets, sidewalks, drainage, detention ponds, recreation areas, playgrounds, sewer lines, water lines, or other utility or use requiring underground construction. This fee is to be paid by the developer to the Town of Lebanon upon final approval of the subdivision. Any remaining funds plus interest will be refunded to the applicant at the completion of the project:

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

2. A performance bond payable to the municipality issued by a licensed surety company, approve by the municipal officers, or town manager;
3. An irrevocable letter of credit from a licensed financial institution establishing funding for the construction of the subdivision, from which the Municipality may draw if construction is inadequate, approved by the municipal officers, or town manager; or

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.

B. Contents of Guarantee

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

C. Escrow Account

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, 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 applicant 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 applicant and the amount withdrawn to complete the required improvements.

D. Performance Bond

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

E. Letter of Credit

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

F. 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. No building permit for a lot will be issued until the road is completed to include the basecoat of pavement along the entire street frontage for the lot and the escrow payment for the topcoat is received. The escrow account shall be the 150% of the highest of (3) three estimates. 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.

G. Release of Guarantee

Prior to the release of any part of the performance guarantee, the Town Treasurer as Escrow Agent shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved,

that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

H. Default

If upon inspection, the municipal engineer or other qualified individual retained by the municipality 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 or she shall so report in writing to the code enforcement officer, the municipal officers, the Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

I. Improvements Guarantee

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 managements facilities, public sewage collection or disposal facilities, public water systems, erosion and sedimentation control measures, and street lighting.

ARTICLE IX - REVISIONS TO APPROVED PLANS

9.1 Procedure.

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

9.2 Submissions.

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

9.3 Scope of Review.

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

9.4 Changes to approved subdivisions

All changes to any approved subdivision are required to be resubmitted to the Planning Board for review and approval. Accordingly, the following guidelines are to be followed for the implementation of this requirement.

1. Any change to an approved subdivision that involves a modification of any detail shown on the approved plan shall be submitted to the Planning Board for review and approval before implementation of the change. This applies to all details shown on the plan with the exception of ownership. Any items that may be questionable shall be reviewed with the Planning Board for a decision.
2. The Planning Board shall handle these changes in the same manner as a new subdivision.
3. If the proposed revision does not substantially change the previously approved plan, the Board may accept the proposed revised plan for review as a Final Plan.
4. For Plan changes of a simple nature that do not substantially change the original Plan, the Board may waive the charge normally applied to subdivisions. This would be primarily for those changes that the Board except for processing directly as the Final Plan stage.
5. If the proposed change creates additional lots, the full review and fee procedure shall be applied. The fees shall apply only to the additional lots created by the change.
6. All details required of a new subdivision shall be furnished the Board including all existing buildings, the location of septic systems and wells, as well as any other specific items that have been placed or added since the original Plan was approved.

ARTICLE X - INSPECTIONS AND ENFORCEMENT

10.1 Inspection of Required Improvements.

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
1. Notify the Code Enforcement Officer and the Selectmen and Planning Board in writing of the time when (s)he proposes to commence construction of such improvements, so that inspections by the Town Engineer can be arranged for, to assure that all town specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board. Inspection of each stage of road construction shall be made prior to proceeding with any additional construction which would interfere with inspection of the preceding work or preclude required corrections of work to date. The agent should be paid by the developer and provide a written report to the Selectmen, Planning Board and Code Enforcement Officer at each stage for future reference.
 2. Deposit with the town officers a check for the amount of 6% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Board of Selectmen, Board, and the subdivider and builder. The Board of Selectmen shall take any steps necessary to preserve the town's rights.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Board.
- D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By October 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 erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Upon completion of street construction and prior to a vote by the Board of Selectmen to submit a proposed public way to a town meeting, a written certification signed by the Road Commissioner shall be submitted to the Board of Selectmen 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 Board of Selectmen.
- F. 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 town or their control is placed with a lot owners association. The subdivider shall pay for any street lighting until acceptance of the improvements by the town or control is placed with a lot owners' association. The subdivider shall file a performance guarantee with the town upon completion of the public improvements in an amount and form acceptable to the town officers assuring that this obligation shall be met. The performance guarantee shall remain in force as long as the subdivider retains this maintenance responsibility.

- G. 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.

10.2 Violations and Enforcement.

- A. No plan of a division of land within the town which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.
- B. A person, shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. No public utility, water utility or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No single unit or multi-family unit shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.
- 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.

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.

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

11.2. Sufficient Water.

- A. Water Supply.
 - 1. 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 Rochester Water Department and the Fire Chief.
 - 2. When a proposed subdivision is not within the area served by a public water supply service, water supply shall be from individual wells or a private community water system.
 - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
 - b. Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.
 - c. If a central water supply system is provided by the subdivider, the location and protection of the source, the design, construction and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
 - d. In subdivisions where the Planning Board has identified the need for additional water storage capacity for firefighting purposes, the subdivider shall provide adequate water storage facilities. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the Fire Chief. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or

installation and the Fire Chief has indicated in writing that alternate methods of fire protection are available.

B. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the Maine 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 Rochester Water Department 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 department's system improvement plan as necessary to alleviate existing deficiencies.

11.4. Soil erosion.

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

11.5. Traffic conditions.

- A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to
 - 1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
 - 2. Avoid traffic congestion on any street; and
 - 3. Provide safe and convenient circulation on public streets and within the subdivision.
- B. More specifically, access and circulation shall also conform to the following standards.
 - 1. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways and traffic controls within existing public streets.
 - 2. Access ways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A warrant analysis to determine the need for a left-turn storage lane shall be done.

3. Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the municipality or in non- residential subdivisions when such access will
 - a. Facilitate fire protection services as approved by the Fire Chief; or
 - b. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.

4. Naming of Streets.
 - a. 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 911 coordinator. 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.
 - b. Any prospective subdivider shall show a proposed road name and lot numbering system of the pre-application submission to the Planning Board. Approval by the 911 coordinator, after consultation with the (addressing authority), shall constitute the assignment of road names and numbers to the lots in the subdivision. On the final plan showing proposed roads, the applicants shall mark on the plan, lines or dots, in the center of the streets every 50 (fifty) feet to aid in assignment of numbers to structures subsequently constructed.

5. 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.

The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

- A. The Site Evaluator shall certify, in writing, that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the Disposal Rules.
- B. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
- C. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

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

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the

Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with 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.

A. Preservation of natural beauty and aesthetics.

1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
2. The subdivision shall be designed to minimize the visibility of buildings from existing public roads.

B. Retention of Open Spaces and Natural or Historic Features

1. If any portion of the subdivision is located within an area designated as a critical natural area 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.
2. If any portion of the subdivision is designated a site of historic or prehistoric importance, by the Lebanon Historical Society or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. See Appendix B.
3. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
4. Reserved open space land may be dedicated to the municipality.

C. Preservation of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:
 - a. habitat for species appearing on the official state or federal lists of endangered or threatened species; or
 - b. high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas.
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,

The applicant shall submit a copy of the preliminary plan to the D.I.F.W.S., requesting their specific recommendations for protective mitigation, if required. If D.I.F.W.S. does not respond within 60 (sixty) days, and the applicant documents two or more attempts to obtain their input, the Board may consider such lack of response as tacit approval of the project by D.I.F.W.S. At its discretion, the Board may require a report by a Certified Wildlife Biologist assessing potential

impact of the subdivision on the mapped habitat and adjacent areas, and prescribing any appropriate mitigation measures required to ensure the subdivision will create no predictably adverse impacts on the habitat of the specified endangered species.

- 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 lot size ordinance and other land use ordinances.

All lots shall meet the minimum dimensional requirements of the Lot Size Ordinance. The proposed subdivision shall meet all applicable performance standards or design criteria from any other applicable municipal ordinance.

11.10. Impact on ground water quality.

- A. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - 1. A map showing the basic soils types.
 - 2. The depth to the water table at representative points throughout the subdivision.
 - 3. Drainage conditions throughout the subdivision.
 - 4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - 5. 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 1,000 feet from potential contamination sources, whichever is a shorter distance.
 - 6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 100 feet of the subdivision boundaries.
- B. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- C. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
- D. 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.
- E. 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.

- F. 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.

11.11. Flood Plain Management.

When any part of a subdivision is located in a special flood hazard area as identified by the Lebanon Flood Hazard Boundary Map:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

11.12. 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.

11.13. Storm water management.

- A. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains, except where retention basins are designed or ground water recharge is desirable.
- B. Where a subdivision is traversed by a stream, river, or surface water 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 town allowing maintenance and improvement of the system.
- C. All components of the storm water management system shall be designed to limit peak discharge rates to predevelopment levels for the 2-year, 10-year and the 25-year frequency, 24-hour duration storms, based on rainfall data for Portland, Maine. When the subdivision discharges directly to the Salmon Falls River, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized.
- D. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

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

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

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

3. The association shall have the power to place a lien on the property of members who fail pay dues or assessments.
4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners association or the developer.

ARTICLE XII - DESIGN GUIDELINES

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

12.1. Sufficient Water.

A. Well Construction.

Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

B. Fire Protection.

1. Fire hydrants connected to a public water supply system shall be located no further than 500 feet from any building.
2. A minimum storage capacity of 10,000 gallons shall be provided for a subdivision not served by a public water supply. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the Fire Chief. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice.
3. Hydrants or other provisions for drafting water shall be provided to the specifications of the Fire Department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches.
4. Where the dry hydrant or other water source is not within the right of way of a proposed or existing street, an easement to municipality shall be provided to allow access. A suitable access-way to the hydrant or other water source shall be constructed.
5. If site conditions are such that adequate fire protection cannot be reasonably provided by fire ponds or dry hydrants, the Planning Board may consider the use of individual residential sprinkler systems, provided that the Fire Chief approves the system design.

12.2. Traffic Conditions

A. All lots in a subdivision shall have frontage on streets designed and constructed in accordance with the Lebanon Subdivision Regulations, or on existing Town streets.

B. Access Control

1. Where a subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the arterial street.
2. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the

lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.

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 12.2.B below shall be met. Where there is a conflict between the standards in this section and the standards of Section 12.2.B, the stricter or more stringent shall apply.

a. General.

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

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

b. Sight Distances.

Accesses shall be located and designed in profile and grading 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 curblin 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 for Four Lane Roads are listed below for various posted speed limits.

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.

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:

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

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

3. Vertical Alignment.

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3% or less for at least 75 feet. The maximum grade over the entire length shall not exceed 8%.

d. Low Volume Accesses.

1. Skew Angle.

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

2. Curb Radius.

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

3. Access Width.

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

e. Medium Volume Accesses.

4. 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° as site conditions permit, but in no case less than 60°.

5. Curb Radius.

Curb radii 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.

6. 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.

7. Curb-Cut Width.

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

f. High Volume Accesses.

1. Skew Angle.

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

2. Curb Radius.

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

3. Curb Cut Width.

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

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

5. Width.

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

6. Appropriate traffic control signage and a street light which the design is D.O.T. approved, shall be erected at the intersection of the access and the street and on medians and channelization islands.

g. Special Case Accesses.

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

1. Perpendicular driveways.

(a) Curb Radii.

Curb radii shall be between 30 feet and 50 feet, with a preferred radius of 50 feet.

(b) Access width.

Access width shall be between 26 feet and 30 feet with a preferred width of 30 feet. On two-way accesses, a triangular channelization island shall be provided at the intersection with the street. On each side of the island the

one-way drive shall be between 15 feet and 24 feet with a preferred width of 20 feet.

(c) Curb-Cut Width.

The total curb-cut width shall be between 86 feet and 130 feet with a preferred width of 130 feet.

(d) Channelization island.

The channelization island on two-way accesses shall be raised and curbed. Corner radii shall be 2 feet.

2. Skewed Accesses.

1. Skew Angle.

The skew angle shall be between 45° and 60°, with a preferred angle of 45°.

2. Curb Radii.

Curb radii shall be between 30 feet and 50 feet on the obtuse side of the intersection, with a preferred radius of 50 feet. Curb radii shall be between 5 feet and 10 feet on the acute side of the intersection with a preferred radius of 5 feet.

3. Access width.

Access width shall be between 15 feet and 24 feet with a preferred width of 18 feet. Where entering and exiting access meet, the width shall be between 24 and 30 feet with a preferred width of 30 feet.

4. Curb-Cut Width.

The curb-cut width for each access shall be between 35 feet and 75 feet with a preferred width of 42 feet.

h. Access Location and Spacing.

1. Minimum Corner Clearance.

Corner clearance shall be measured from the point of tangency 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 in table below, based upon access volume and intersection type.

<u>Minimum Corner Clearance (feet)</u>		
<u>Access Type</u>	<u>Signalized Intersection</u>	<u>Unsignalized Intersection</u>
Low Volume	150	50
Medium Volume	150	50
High Volume	500	250
Special Case		
Right Turn In Only	50	50
Left Turn Out Only	100	50
Right Turn In or Out Only	100	50

Where the minimum standard for a full access drive cannot be met, only a special case access shall be permitted. If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

2. Access Spacing.

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

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

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

² For two or 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 address.

* High volume access without right turn channelization

** High volume access with right turn channelization

*** Right-turn-in-only upstream of right-turn-out-only. Right-turn-out followed by right-turn-in not allowed.

- i. Number of Accesses.
The maximum number of accesses onto a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.
 - 1. No low volume traffic generator shall have more than one two-way access onto a single roadway.
 - 2. No medium or high volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.
- j. Construction Materials/Paving.
 - 1. All accesses entering a curbed street shall be curbed with materials matching the street curbing. Sloped curbing is required around all raised channelization islands or medians.
 - 2. All accesses shall be paved with bituminous concrete pavement within the street right-of-way. All commercial accesses regardless of access volume shall be paved with bituminous concrete pavement within 30 feet of the street right-of-way.

B. Street Design and Construction Standards

- 1. General Requirements.
 - a. The Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the specifications contained, any local ordinance or in the Lebanon Subdivision Regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
 - b. Applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one-inch equals no more than 50 feet. The vertical scale of the profile shall be one-inch equals no more than five feet. The plans shall include the following information:
 - 1. Date, scale, and north point, indicating, magnetic or true.
 - 2. Intersections of the proposed street with existing streets.
 - 3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
 - 4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 - 5. Complete curve data shall be indicated for all horizontal and vertical curves.
 - 6. Turning radii at all intersections.
 - 7. Centerline gradients.

8. Size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Upon receipt of plans for a proposed street the Board shall forward one copy to the Selectboard and the Road Commissioner for review and comment. If appropriate and necessary, the Road Commissioner may choose to contract the services of a professional Civil Engineer to review road plans at the expense of the applicant.
 - d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner or the Maine Department of Transportation, as appropriate.
 - e. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.
 "All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town, until they meet the municipal street design and construction standards."
2. Street Design Standards.
- a. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of Article XI.
 - b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
 - c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
 - d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), 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.
 - e. Any subdivision expected to generate average daily traffic of 200 trips per day or more, shall have at least two street connections with existing public streets or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street with an average daily traffic of 200 trips per day or more, shall have at least two street connections leading to existing public streets or on an approved subdivision plan for which performance guarantees have been filed and accepted.
 - f. The following design standards shall apply according to street classification:

<u>Description</u>	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private</u>	<u>Industrial/ Commercial</u>
Minimum Right-of-Way Width	80'	50'	50'	50'	60'
Minimum Traveled Way Width	44'	24'	20'	20'	30'
Minimum width of shoulders (each side)	5'	3'	8'	5'	
Sidewalk Width	5'	5'	N/A	N/A	
Minimum Grade .5%	.5%	.5%	.5%	.5%	.5%
Maximum Grade * 5%	6%	8%	5%	8%	5%
Minimum Centerline Radius without superelevation	500'	280'	400'	175'	300'
with superelevation	350'	175'	175'	110'	300'
Roadway Crown **	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft
Minimum angle of street intersections ***	90°	90°	75°	75°	90°
Maximum grade within 75 ft. of intersection	3%	3%	3%	3%	3%
Minimum curb radii at intersections ****	30'	25'	20'	20'	30'
Minimum r/o/w radii at intersections	20'	10'	10'	10'	20'

* Maximum grade may be exceeded for a length of 100 feet or less.

** Roadway crown is per foot of lane width.

*** Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.

**** Should be based on turning radii of expected commercial vehicles, but no less than 30 feet.

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

h. Dead End Streets.

1. Cul-de-sacs

In addition to the design standards in Table 12.2-3, dead-end streets shall be constructed to provide tear drop cul-de-sac turn-around in accordance with the design standards in Attachment B. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. When not in a wooded area it shall be grassed, landscaped, or kept in a natural state. The Board shall require the reservation of a 20-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 50-foot easement in line with the street to provide continuation of the road where future subdivision is possible. The Board may require streets to be connected if cul-de-sacs are located less than 600ft. apart as measured from the center of the cul-de-sac, or if the entrance to a dead-end street is within 600 ft. of another entrance to a dead-end street.

Grades, Intersections, and Sight Distances.

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

2. All changes in grade shall be connected by vertical curves in order to provide the

following minimum stopping sight distances based on the street design speed.

Design Speed (mph)	<u>20</u>	<u>25</u>	<u>30</u>	<u>35</u>
Stopping Sight Distance (ft)	125	150	200	250

Stopping sight distance shall be calculated with a height of eye at 3.5 feet and the height of object at .5 foot.

3. Where new street intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table below. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten feet behind the curblines or edge of shoulder, with the height of the eye 3.5 feet, to the top of an object 4.25 feet above the pavement.

Posted Speed Limit (mph)	<u>25</u>	<u>30</u>	<u>35</u>	<u>40</u>	<u>45</u>	<u>50</u>	<u>55</u>
Sight Distance (ft)	250	300	350	400	450	500	550

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

4. Cross (four-cornered) street intersections shall be avoided insofar as possible. A minimum distance of 125 feet shall be maintained between centerlines of minor streets and 200 feet between collectors or a collector and minor street.

j. Sidewalks.

Where installed, sidewalks shall meet these minimum requirements.

1. Location.

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2.5 feet from the curb facing or edge of shoulder if the street is not curbed.

2. Bituminous Sidewalks.

- (a.) The "subbase" aggregate course shall be no less than 12 inches thick after compaction.
- (b.) The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each no less than one inch after compaction.

3. Portland Cement Concrete Sidewalks.

- (a.) The "subbase" aggregate shall be no less than 12 inches thick after compaction.
- (b.) The Portland Cement concrete shall be reinforced with six-inch square, number ten wire mesh and shall be no less than four inches thick.

3. Street Construction Standards.

- a. The minimum thickness of material after compaction shall meet the specifications in table 12.2.4.

Table 12.2.4. Minimum Pavement Materials Thicknesses

<u>Street Materials</u>	<u>Arterial</u>	<u>Collector</u>	<u>Minor</u>	<u>Private Right of Way</u>	<u>Industrial/ Commercial</u>
Aggregate Subbase Course (Max. sized stone 6")					
Without base gravel	24"	18"	18"	18"	24"
With base gravel	20"	15"	15"	15"	20"
Crushed Aggregate Base Course (if necessary)	4"	3"	3"	3"	4"
Hot Bituminous Pavement					
Total Thickness	3.75"	3.75"	3.75"	3"	4"
Surface Course	1.25"	1.25"	1.25"	1"	1.25"
Base Course	.250"	2.50"	2.50"	1.50	2.75"
Surface gravel	N/A	N/A	N/A	N/A	N/A

b. Preparation.

1. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at 50-foot intervals.
2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.
3. All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate subbase below, or a Maine Department Of Transportation approved stabilization geotextile may be used.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

- 6. Driveway culverts must be sized in consultation with the Lebanon Road Commissioner.
- c. Bases and Pavement.
 - 1. Bases/Subbase.

Reference Section 304.02 of the Maine Department of Transportation Standard Specifications publication dated, December 2002 or current edition.

- (a) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch square mesh sieve shall meet the grading requirements of Table 12.2.5

Table 12.2.5 Aggregate Subbase Gradation Requirements

Reference MDOT Material Specification 703.06(b)(Type D). Refer to State of Maine Department of Transportation Standard Specifications publication dated December 2002 or current edition.

<u>Sieve Designation</u>	Percentage by Weight Passing <u>Square Mesh Sieves</u>
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the subbase shall contain no particles of rock exceeding six inches in any dimension.

- (b) If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the requirements of Table 12.2.6:

Table 12.2.6 Base Course Grading Requirements

Reference MDOT Material Specification 703.03(a) (Type A). Refer to State of Maine Department of Transportation Standard Specifications publication dated December 2002 or current edition.

<u>Sieve Designation</u>	Percentage by Weight Passing <u>Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

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

2. Placing

Refer to the procedure given in section 304.03 of the State of Maine Department of Transportation Standard Specifications publication dated December 2002 or current edition.

3. Shaping, Compacting and Stabilizing

Reference Section 304.04 of the State of Maine Department of Transportation Standard Specifications publication dated December 2002 or current edition.

Compaction of each layer shall continue until a density of not less than 95% of the maximum density has been achieved for the full width and depth of the layer. The maximum density shall be determined in accordance with T180, Method C or D. Field density tests will be performed by a qualified independent testing company at the expense of the contractor or developer. Compaction test locations shall be designated by the Town or the inspecting engineering firm acting as the Town's representative. The surface, compaction and stability, shall be satisfactorily maintained until the pavement course has been placed. If required, additional water and fine material shall be applied to prevent checking, raveling or rutting.

Fine Material added to the base shall be uniformly blended into the top 225 mm [9 in] of the course being stabilized. The blended material shall meet the requirements of Section 304.02 Aggregate.

If the top of any layer becomes contaminated by degradation of the aggregate or addition of foreign material, the contaminated material shall be removed and replaced with the specified material.

All layers of aggregate subbase course shall be compacted to the required density immediately after placing. As soon as the compaction of any layer had been completed, the next layer shall be placed unless otherwise authorized.

The Contractor shall bear full responsibility for an make all necessary repairs to the subbase course and the subgrade until the full depth of the subbase course is placed and compacted.

The top of any aggregate base or subbase course layer shall be scarified and loosened for a minimum depth of 25 mm [1 in] immediately prior to the placing of the next layer of aggregate base or subbase.

The surface of each layer shall be maintained during compaction operations in such a manner that a uniform texture is produced and the aggregate firmly keyed. The moisture content of the material shall be maintained at the proper percent to attain the required compaction and stability.

If voids remain on the surface after the subbase course has been constructed to grade, compacted, checked and approved, sand-leveling material shall be dumped and spread as directed. The quantity of sand leveling material shall be limited to the amount necessary to fill the voids and the minor low areas on the subbase surface. After the sand leveling material has been spread it shall be completely rolled by a rubber-tired roller with water applied, if necessary. The surface of this material shall be maintained in its compacted and graded condition until the bituminous pavement has been placed.

4. Pavement Joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint. A tack coarse should be applied.

5. Pavements.

1. Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than one inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to paved is not frozen or unreasonably wet.
2. Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

6. Surface Gravel.

Driveways need not be paved. Unpaved driveways shall be gravel surfaced. Surface gravel shall be placed on top of the aggregate subbase, shall have no stones larger than 2 inches in size and meet the following gradation:

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
2 inch	95-100%
1/2 inch	30-65%
No.200	7-12%

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

Retention of Historic Features and Cemeteries.

- A. When a proposed subdivision contains a cemetery listed in Appendix B, an easement to appropriate parties shall be deeded to provide access to the cemetery or historic site.
- B. When a proposed subdivision contains or is adjacent to an historic site listed in Appendix B, notes on the plan and deed restrictions shall be included to assure the architectural style of buildings in the subdivision is similar in character to the existing architectural styles.
- C. 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, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet.

- D. 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.

12.4 Storm Water Management Design Guidelines.

A. Materials

1. Reinforced Concrete Pipe.

Reinforced Concrete Pipe shall meet the requirements of ASTM designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01-inch crack strength with Class B bedding. Joints shall be of the rubber gasket type meeting ASTM designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek". Perforated concrete pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.

2. Asbestos Cement Pipe.

Asbestos cement pipe shall meet the requirements of ASTM Designation C-428 (AASHTO M189). Pipe classes shall be required to meet the soil and traffic loads with a Safety factor of 1.5 on the crushing strength. Joints shall be of the rubber gasket type. Meeting ASTM designation D-1869-63, or of an approved preformed plastic sleeve type.

3. Corrugated Metal Pipe.

Corrugated metal pipe shall be bituminous coated meeting the requirements of AASHTO designation M 190 Type C for iron or steel pipe or AASHTO designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than 5%.

4. ABS Pipe.

ABS (Acrylonitrile-butadiene-styrene) composite pipe and fitting shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.

5. Corrugated Plastic Pipe.

Corrugated plastic pipe shall conform to the requirements of AASHTO M 252.

6. Manholes.

Manholes shall be of pre-cast concrete truncated cone section construction meeting the requirements of ASTM designation C 478 or pre-cast concrete manhole block construction meeting the requirements of ASTM designation C 139, radial type. Bases may be cast in place 3,000 psi 28-day strength concrete or may be of pre-cast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops, shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel. 25

7. Catch Basins.

Catch basins shall be of pre-cast concrete truncated cone section construction meeting the requirements of ASTM designation C 478 or pre-cast concrete manhole block construction meeting the requirements of ASTM designation C139, radial type. Castings shall be square cast iron sized for the particular inlet condition with the gratings perpendicular to the curb line.

Bases may be cast in place 3,000 psi 28-day strength concrete or may be of pre-cast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and with tops, shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

- B. 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 Road Commissioner, after consultation with the Municipal Engineer.
- C. 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.
- D. 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.
- 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.
- 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.
- C. To ensure adequate driveway width, the minimum length of any culvert shall be thirty (30) feet, measured from opening to opening.
- D. Catch basins shall be installed where necessary and located at the curb line.
- E. Storm Drainage Construction Standards.
 - 1. Materials.
 - a. Storm drainage pipes shall conform to the requirements of MDOT materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.
 - b. Where the storm drainage pipe is to be covered by 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.
 - 2. Pipe Gauges.

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

Material	Galvanized CMP	Aluminum/Zinc Coated CMP	Aluminum Coated CMP
	<u>Inside Diameter</u>	<u>Corrugated Aluminum Alloy</u>	<u>Polymer Coated CMP</u>
	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.

12.5 Lots.

- A. Wherever possible, side lot lines shall be perpendicular to the street.
- B. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of these regulations and conditions placed on the original approval.
- C. If a lot on one side of a stream, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, or road to meet the minimum lot size.
- D. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- E. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board.

12.6 Utilities.

Utilities serving lots with a street frontage of 125 feet or less shall be installed underground.

12.7 Monuments.

- A. Magnetically detectable 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.
- B. Magnetically detectable monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
- C. Magnetically detectable monuments shall be a minimum of 5/8" diameter capped rebar and five feet in length, and set a minimum of (1) one foot above final grade.
- D. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by magnetically detectable monumentation, as required by the Maine Board of Registration of Land Surveyors.

ARTICLE XIII - WAIVERS

- 13.1** 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 Zoning Ordinances, or these regulations.
- 13.2** 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 Zoning Ordinances, 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.
- 13.3** 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.
- 13.4** **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 XIV - APPEALS

- 14.1** 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.

Appendix A

Title 30-A, Chapter II, Subchapter IV

SUBDIVISIONS

As Effective December 1, 2004

§4401. Definitions

As is used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Densely developed area. “Densely developed area” means any commercial, industrial, or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

2. Dwelling unit. “Dwelling unit” means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.

2-A. Freshwater wetland. “Freshwater wetland” means freshwater swamps, marshes, bogs and similar areas which are:

A. 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

B. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

3. Principal structure. “Principal structure” means any building or structure in which the main use of the premises takes place.

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

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

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

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

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

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

(1) (REPEALED)

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the

parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435 or a municipality's shoreland zoning ordinance.

D. (REPEALED)

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

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

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

D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than 1/2 the assessed value of the real estate.

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

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

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

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

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

H. (REPEALED)

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

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

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

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of

the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

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

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

7. Outstanding river segments. In accordance with Title 12, section 402, "outstanding river segments" means:

A. The **Aroostook River** from the Canadian Border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S.;

B. The **Carrabassett River** from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line;

C. The **Crooked River** from its inlet into Sebago Lake to the Waterford and Albany Township town line;

D. The **Damariscotta River** from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills;

E. The **Dennys River** from the Route 1 bridge to the outlet of Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;

F. The **East Machias River**, including the Maine River, from 1/4 of a mile above the Route 1 bridge to the East Machias and T.18, E.D., B.P.P. town line, from the T.19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander town line to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond;

G. The **Fish River** from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake;

H. The **Kennebago River** from its inlet into Cupsuptic Lake to the Rangely and Lower Cupsuptic Township town line;

I. The **Kennebec River** from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake;

J. The **Machias River** from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line;

K. The **Mattawamkeag River** from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville;

L. The **Narraguagus River** from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town lines, excluding Beddington Lake;

M. The **Penobscot River**, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the **East Branch of the Penobscot** from the Penobscot River to the East Millinocket and Grindstone Township town line;

N. The **Piscataquis River** from the Penobscot River to the Monson and Blanchard Plantation town line;

O. The **Pleasant River** from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of the Pleasant River Lake;

P. The **Rapid River** from the Magalloway Plantation and Upton town line to the outlet of Pond in the River;

- Q. The **Saco River** from the Little Ossipee River to the New Hampshire border;
- R. The **St. Croix River** from the Route 1 bridge in Calais to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage;
- S. The **St. George River** from the Route 1 bridge in Thomaston to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond;
- T. The **St. John River** from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line;
- U. The **Sandy River** from the Kennebec River to the Madrid and Township E town line;
- V. The **Sheepscot River** from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the **West Branch of the Sheepscot** from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China;
- W. The **West Branch of the Pleasant River** from the East Branch in Brownville to the Brownville and Williamsburg Township town line; and
- X. The **West Branch of the Union River** from the Route 181 bridge in Mariaville to the outlet of Great Pond in the Town of Great Pond.

§4402. Exceptions

This subchapter does not apply to:

1. **Previously approved subdivisions.** Proposed subdivisions approved by the planning board or the municipal officials before September 23, 1971 in accordance with the laws then in effect;
2. **Previously existing subdivisions.** Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law;
3. **Previously recorded subdivisions.** A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971;
4. Airports with an approved airport layout plan. Any airport with an airport layout plan that has received final approval from the airport sponsor, the Department of Transportation and the Federal Aviation Administration; or
5. Subdivisions in existence for at least 20 years. A subdivision in violation of this subchapter that has been in existence for 20 years or more, except a subdivision:
 - A. That has been enjoined pursuant to section 4406;
 - B. For which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds;
 - C. For which a lot owner was denied a building permit under section 4406, and record of the denial was recorded in the appropriate registry of deeds; or
 - D. That has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds.

§4403. Municipal review and regulation

This section governs municipal review of proposed subdivisions.

1. Municipal reviewing authority. The municipal reviewing authority shall review all requests for subdivision approval. On all matters concerning subdivision review, the municipal reviewing authority shall maintain a permanent record of all its meetings, proceedings and correspondence.

1–A. Joint meetings. If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application under section 4407 for a revision or amendment to a subdivision that crosses municipal boundaries must be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the criteria described in section 4404, subsection 19.

The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing. [1997, c. 226, §1 (amd).]

2. Regulations; review procedure. The municipal reviewing authority may, after a public hearing, adopt, amend or repeal additional reasonable regulations governing subdivisions which shall control until amended, repealed or replaced by regulations adopted by the municipal legislative body. The municipal reviewing authority shall give at least 7 days' notice of this hearing.

A. The regulations may provide for a multi-stage application or review procedure consisting of no more than 3 stages:

- (1) Preapplication sketch plan;
- (2) Preliminary plan; and
- (3) Final plan.

Each stage shall meet the time requirements of subsections 4 and 5.

3. Application; notice; completed application. This subsection governs the procedure to be followed after receiving an application for a proposed subdivision.

A. When an application is received, the municipal reviewing authority shall give a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. The municipal reviewing authority shall notify by mail a public drinking water supplier if the subdivision is within its source water protection area.

B. Within 30 days after receiving an application, the municipal reviewing authority shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application.

C. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

D. The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of Title 32, chapter 121 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in title 32, section 13907.

4. Public hearing; notice. If the municipal reviewing authority decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within 30 days after determining it has received a complete application. The municipal reviewing authority shall have notice of the date, time and place of the hearing:

A. Given to the applicant; and

B. Published, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be least 7 days before the hearing.

5. Decision; time limits. The municipal reviewing authority shall, within 30 days of a public hearing or, if no hearing is held within 60 days of determining it has received a complete application or within any other time limit that is otherwise mutually agreed to, issue an order:

A. Denying approval of the proposed subdivision;

B. Granting approval of the proposed subdivision; or

C. Granting approval upon any terms and conditions that it considers advisable to:

(1) Satisfy the criteria listed in section 4404;

(2) Satisfy any other regulations adopted by the reviewing authority; and

(3) Protect and preserve the public's health, safety and general welfare.

6. Burden of proof; findings of fact. In all instances, the burden of proof is upon the person proposing the subdivision. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in subsection 5.

7. Conditioned on variance. If the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance, the subdivider must comply with section 4406, subsection 1, paragraph B.

§4404. Review criteria

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

A. The elevation of land above sea level and its relation to the flood plains;

B. The nature of soils and subsoils and their ability to adequately support waste disposal;

C. The slope of the land and its effect on effluents;

D. The availability of streams for disposal of effluents; and

E. The applicable state and local health and water resource rules and regulations;

2. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

3. Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

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

6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;

7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste , if municipal services are to be utilized;

8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;

11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B (Sections 435 through 449), the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B (Sections 435 through 449), or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;

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

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

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

15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

16. Storm water. The proposed subdivision will provide for adequate storm water management;

17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

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

§4404. Review criteria

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that:

- 1. Pollution.** The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of land above sea level and its relation to the flood plains;
 - B. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable state and local health and water resource rules and regulations;
- 2. Sufficient water.** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
- 3. Municipal water supply.** The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
- 4. Erosion.** The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- 5. Traffic.** The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
- 6. Sewage disposal.** The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- 7. Municipal solid waste disposal.** The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;
- 8. Aesthetic, cultural and natural values.** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- 9. Conformity with local ordinances and plans.** The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;
- 10. Financial and technical capacity.** The subdivider has adequate financial and technical capacity to meet the standards of this section;
- 11. Surface waters; outstanding river segments.** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B (Sections 435 through 449), the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
 - A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

(1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.

(2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B (Sections 435 through 449), or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;

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

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

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

15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;

16. Storm water. The proposed subdivision will provide for adequate storm water management;

17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;

19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and

20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

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

§4405. Access to direct sunlight

The municipal reviewing authority may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and set-back requirements or other permissible forms of land use controls.

§4406. Enforcement; prohibited activities

The Attorney General, the municipality or the planning board of any municipality may institute proceedings to enjoin a violation of this subchapter.

1. Sales or other conveyances. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and approved under Title 38, chapter 3, subchapter I, article 6 (Sections 481 through 490), where applicable, and subsequently recorded in the proper registry of deeds.

A. No register of deeds may record any subdivision plat or plan that has not been approved under this subchapter. Approval for the purpose of recording must appear in writing on the plat or plan. All subdivision plats and plans required by this subchapter must contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared.

B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

(1) In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must:

- (a) Indicate the name of the current property owner;
- (b) Identify the property by reference to the last recorded deed in its chain of title; and
- (c) Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

(2) The variance is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or approval under Title 38, chapter 3, subchapter I, article 6 (Sections 481 through 490), where applicable, whichever date is later, or the variance is void.

B-1. Whenever the subdivision is exempt from Title 38, chapter 3 subchapter I, article 6 (Sections 481 through 490), because of the operation of Title 38, section 488, subsection 5, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds. The developable land, as defined in Title 38, section 488, subsection 5, must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the registry of deeds. This certificate must:

- (1) Indicate the name of the current property owner;
- (2) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan;
- (3) Indicate that an exemption from Title 38, chapter 3, subchapter I, article 6 (Sections 481 through 490), has been exercised;
- (4) Indicate that the requirements of Title 38, section 488, subsection 5, have been and will be satisfied; and
- (5) Indicate the date of notification of the Department of Environmental Protection under Title 38, section 488, subsection 5.

The exemption is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval under this subchapter or the exemption is void.

C. A building inspector may not issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6 (Sections 481 through 490), where applicable.

D. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6 (Sections 481 through 490), where applicable, shall be penalized in accordance with section 4452.

E. Any person who after receiving approval from the municipal reviewing authority or approval under Title 38, chapter 3, subchapter I, article 6, and recording the plan at the registry of deeds, constructs or develops the subdivision, or transfers any lot in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the municipal reviewing authority or the Department of Environmental Protection, when applicable, must be penalized in accordance with section 4452.

F. Any person who sells, leases or conveys for consideration any land or dwelling unit in a subdivision approved under this subchapter and exempt from Title 38, chapter 3, subchapter I, article 6 (Sections 481 through 490), because of the operation of Title 38, section 488, subsection 5, shall include in the instrument of sale, lease or conveyance a covenant to the transferee that all of the requirements of Title 38, section 488 subsection 5, have been and will be satisfied.

2. Permanent marker required. No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term “permanent marker” includes, but is not limited to, the following:

- A. A granite monument;
- B. A concrete monument;
- C. An iron pin; or
- D. A drill hole in ledge.

3. Utility installation. A public utility, water district, sanitary district or any utility company of any kind may not install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officers and the utility, except that if a public utility, water district, sanitary district or utility company of any kind has installed services to a lot or dwelling unit in a subdivision in accordance with this subsection, a subsequent public utility, water district, sanitary district or utility company of any kind may install services to the lot or dwelling unit in a subdivision without first receiving written authorization pursuant to this section.

4. Permit Display. A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on site while work authorized by the permit is being conducted.

§4407. Revisions to existing plat or plan

Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. In reviewing such an application, the municipal reviewing authority shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of section 4404.

- 1. Recording.** If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plat or plan, the register shall:
 - A. Indicate on the index for the original plat or plan that it has been superseded by another plat or plan;
 - B. Reference the book and page or cabinet and sheet on which the new plat or plan is recorded; and
 - C. Ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan.

