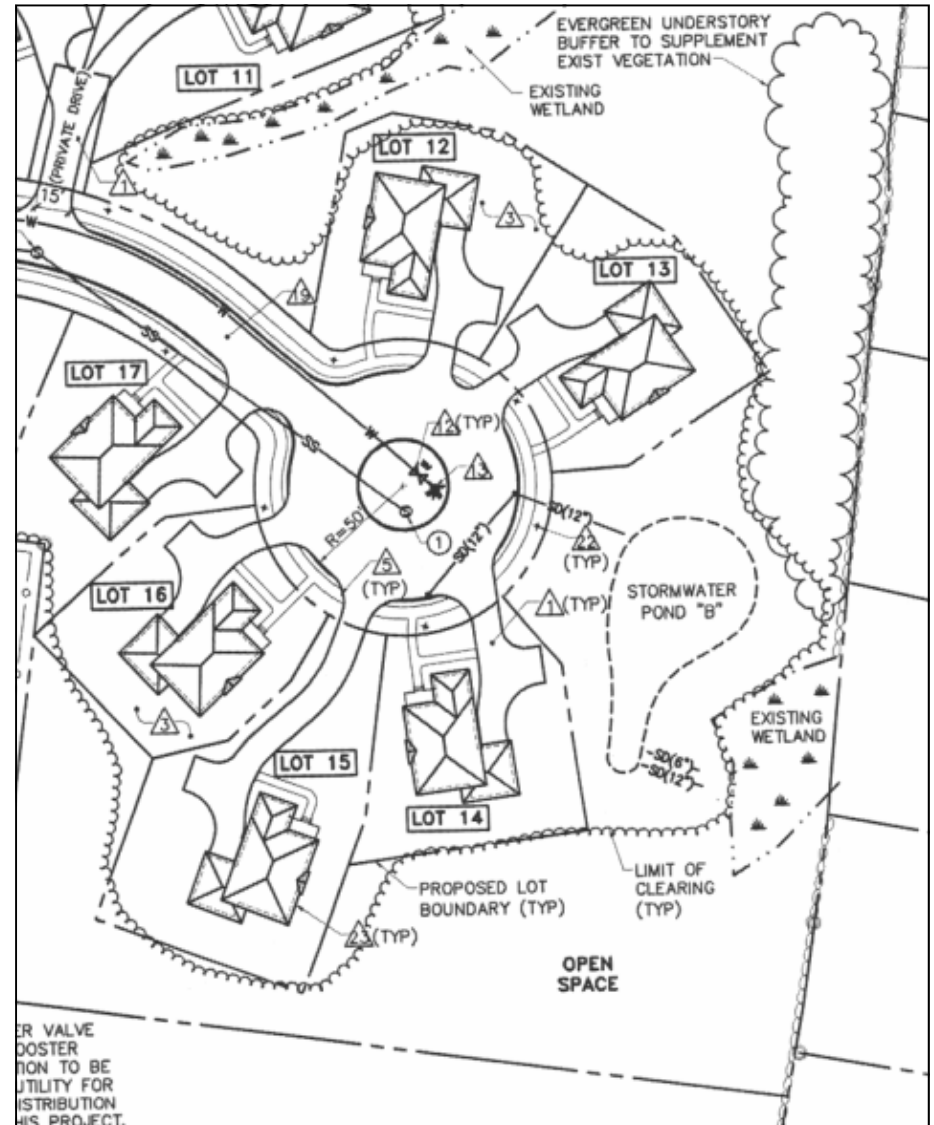


Model Subdivision Regulations for Use by Maine Planning Boards

with expanded commentary and model forms



Twelfth Edition — June 2006
For SPO Review Only — 6-28-06



Financial assistance for this publication was provided by the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, US Department of Commerce, under the Coastal Zone Management Act of 1972, award # NA04NOS4190041. CZM in Maine is administered in Maine by the Maine Coastal Program at the Maine State Planning Office.

WELCOME TO THE 2006 MODEL SUBDIVISION REGULATIONS FOR MAINE PLANNING BOARDS

Under a contract with the Maine State Planning Office (SPO) the Southern Maine Regional Planning Commission (SMRPC) has completed this updated twelfth edition of the Model Subdivision Regulations. This document replaces the previous edition completed by SMRPC in December 1996. Since that time, many changes have occurred both locally and nationally in terms of the best practices for subdivision design and review. These include several different aspects of subdivision planning that have evolved since 1996, heavily influenced by the “smart growth” movement:

- **Access management**—locations and spacing of curb cuts, sharing and spacing of driveways
- **Street and sidewalk design**—width of subdivision streets, paving and curbing materials, sidewalk widths and materials
- **Interconnectivity**—connecting streets and paths, policies on acceptance of roads, potential for waivers
- **Stormwater Management**—Low Impact Design (LID), coordination with new rules and BMP’s
- **Fire Protection**—access to water sources and hydrants
- **Natural Resource Conservation**—clustering and open space planning, protection of vernal pools and upland habitat, incorporating Beginning With Habitat data
- **Design Standards**—incorporation of Traditional Neighborhood Development (TND) principles
- **Shoreland Guidelines**— reflecting new state guidelines regarding development in shoreland zones
- **Managing the Process**—straightforward management principles for Planning Boards in smaller communities.

Many statutory and regulation changes have also occurred over the last 10 years. This document incorporates all of these changes into the similar overall structure of the 1996 model. The intent is for municipalities to keep their existing subdivision regulations or ordinances largely intact and to plug these changes into those existing documents. Comments are inserted in the margins to note where these changes are recommended. The one major change is that Article 11 in this model combines Performance and Design Standards. In the 1996 model, these two types of standards were considered separately. Also, the distinction between major and minor subdivisions has been removed, reflecting the experiences of many Planning Boards that often the smaller subdivisions have just as many difficult issues as larger ones, if not more so.

Production of this document was supervised by Jonathan T. Lockman, AICP, Planning Director of the Southern Maine Regional Planning Commission. The extensive new transportation performance standards in section 10.15 were authored by Joshua Mack, Transportation Planner. The Appendices were edited by Donna Tippet, Land Use Planner. Support was provided by other SMRPC staff, including Jamie Oman-Saltmarsh, Senior Planner. Contact the staff of SMRPC at 207-324-2952 with any questions about this publication.

TABLE OF CONTENTS
STATE OF MAINE MODEL SUBDIVISION REGULATIONS

Article 1—Purposes and Statutory Review Criteria..... 1-1 to 1-8

Article 2—Authority and Administration2-1

Article 3—Definitions 3-1 to 3-9

Article 4—Administrative Procedure.....4-1

Article 5—Sketch Plan Meeting and Site Inspection 5-1 to 5-4

Article 6—Preliminary Plan Application 6-1 to 6-13

Article 7—Final Plan Application..... 7-1 to 7-14

Article 8—Revisions to Approved Plans8-1

Article 9—Inspections and Enforcement 9-1 to 9-5

Article 10—Performance and Design Standards..... 10-1 to 10-64

Article 11—Performance Guarantees..... 11-1 to 11-4

Article 12—Waivers..... 12-1 to 12-3

Article 13—Appeals.....13-1

ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA

1.1 **Purposes.** The purposes of these regulations are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- B. To assure new development in the Town of _____ meets the goals and conforms to the policies of the _____ Comprehensive Plan;
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of _____;
- D. To protect the environment and conserve the natural and cultural resources identified in the _____ Comprehensive Plan as important to the community;
- E. To assure that 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;
- F. To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- G. To promote the development of an economically sound and stable community.

This article introduces the purposes of the regulations. The subdivision law has four broad purposes: setting standards for the platting of land; consumer protection by setting out standards for adequate facilities; environmental protection; and municipal growth management. This paragraph articulates these purposes.

If these standards are adopted as an ordinance, the first line needs to be changed from “The purposes of these regulations...” to “The purposes of this ordinance...”

A municipality’s subdivision regulations are an important part of the implementation strategy for achieving the goals of the community’s comprehensive plan, as far as preserving natural resources, providing public services and in general, guiding the location of growth within the community. Although the subdivision review process cannot necessarily control *where* development will take place, it can go a long way in determining the quality of that development and the impacts of the development on the community. The regulations should reflect the policies of the comprehensive plan, by guiding development activity away from resources for which the plan calls for protection and into areas the plan indicates should see growth, and by implementing policies and plan strategies regarding public facilities.

Commentary

1.2. **Statutory Review Criteria:** When reviewing any application for a subdivision, as defined by Article 3, the Review Authority shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Zoning Ordinance and other sections of this Regulation have been met, before granting approval. The proposed project :

- A. Will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - 1. The elevation of the land above sea level and its relation to the flood plains;
 - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - 3. The slope of the land and its effect on effluents;
 - 4. The availability of streams for disposal of effluents; and
 - 5. The applicable State and local health and water resources rules and regulations;
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be used;
- D. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold

The subdivision law contains twenty criteria for approval of a proposed subdivision. However, the standards in the statute are somewhat general and vague. Therefore, one of the main purposes of local, municipal subdivision regulations is to clarify and expand upon the criteria of the statute. The regulations also provide the procedural framework under which a proposed subdivision is reviewed.

Towns that do not have their own adopted Subdivision Regulation or Ordinance would only use these twenty criteria found in the statute in order to base a decision. The Performance and Design Standards of Article 10 of this Model have been designed to assure compliance with these twenty statutory criteria.

water so that a dangerous or unhealthy condition results;

- E. 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, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
- F. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- G. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized;
- H. 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;

This section makes clear that a DOT driveway or entrance approval is required, prior to final subdivision approval from the local review authority.

- I. Is in conformance 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;
- J. The developer has adequate financial and technical capacity to meet the standards of this section.
- K. 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, sections 435 through 490, or within 250 feet of tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
 - 1. 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.
 - (a) 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

Most Boards never discuss the financial and technical capacity of the applicant, considering it unseemly to pry into such a private matter. However, there are occasions when the Board may doubt whether an applicant has the knowledge or funds to actually develop a subdivision properly and may ask for proof that he or she has the experience and financial backing to construct the project

Most Towns do not have outstanding river segments so that the provisions of K.1 will not apply.

to the shore.

(b) 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, 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;

- L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water

- M. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision

will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

- N. 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;
- O. 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;
- P. The proposed subdivision will provide for adequate storm water management;
- Q. 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;
- R. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the

This statutory provision requires all wetlands, whether forested or open, be delineated and mapped on a subdivision plan, REGARDLESS OF SIZE.

This is an often overlooked review criteria that must be followed, even if it is not mentioned in the community's shoreland zoning regulations, or elsewhere in the subdivision ordinance or regulation.

construction phase and life of the proposed subdivision;

- S. 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.

- T. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board 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. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may

In the case of a proposed subdivision that crosses a municipal boundary, the statute requires joint review meetings by both Towns' reviewing authorities, unless one town cedes control of the review over to the other. See Title 30-A M.R.S.A. section 4403, subpart 1-A. Unfortunately, the exact method of how to conduct the joint meetings is not spelled out in the statute. The Towns may wish to consulting with their Regional Planning Commission or Town Attorney in these situations.

This relatively new provision mandates a five year waiting period, if a landowner violates liquidation harvesting rules, and technical assistance is available from the Department of Conservation, Bureau of Forestry.

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, M.R.S.A 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.

ARTICLE 2 - 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 _____, Maine.”

2.2 Administration.

- A. The Planning Board of the Town of _____, 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 _____.

2.3 Amendments.

- A. These regulations may be amended by:
 - 1. The Legislative Body of the Town of _____.
 - 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.

Title 30-A M.R.S.A., §4403, subpart 12, authorizes the municipal review authority to adopt these regulations. Note that Title 30-A M.R.S.A., §4403 requires the municipal review authority to hold a public hearing, with seven days notice, prior to adoption.

This section simply gives the document a name. If these standards are adopted as an ordinance by the municipal legislative body, the standards should be known as the “Subdivision Ordinance.”

Title 30-A M.R.S.A., §4301 indicates that the municipal review authority is the Planning Board, agency or office, if one has been established, or the municipal officers if not. If your municipality has not established a Planning Board, Section 2.2.A should refer to the Municipal Officers. If your municipality has a town or city planner, you may choose to designate the planning department as the review authority, freeing the Planning Board to work on planning or other projects. In addition, if part of that person’s responsibility is to work with the Planning Board in reviewing subdivisions Section 2.2.A should reference them in the process. If the municipality chooses to designate the planning department as the review authority, it may be best to do so under a home rule-based ordinance in addition to citing Title 30-A M.R.S.A., §4301, the statutory definition of review authority.

If the standards are adopted as an ordinance, Section 2.2.B should refer to “this ordinance.”

Title 30-A M.R.S.A., §4403, sub-§2 provides that regulations adopted by the review authority are in effect until amended, repealed or replaced by regulations adopted by the legislative body. Our opinion is that if adopted as regulations by the review authority, and never acted upon by the legislative body, then the review authority may amend the regulations following a hearing. If the legislative body has either adopted the standards or amended them, our opinion is that all subsequent amendments must be adopted by the legislative body. If that is the case in your municipality, rewrite Section 2.3.A to read, “These regulations may be amended by the Legislative Body of the Town of _____.”

The hearing and notice requirements are from the statute (Title 30-A M.R.S.A., §4403, sub-§2). If adopted as an ordinance other hearing requirements may apply. See particularly your municipal charter for hearing requirements.

ARTICLE 3 - DEFINITIONS

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

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

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

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 portion of the comprehensive plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

Cluster Subdivision: A subdivision in which the lot

The introductory paragraph relating the meaning of words in this document and the zoning ordinance is relatively important in order to avoid possible conflicts between the two documents. The definition sections of the two documents should be compared carefully prior to adoption of the regulations. Delete from this list any term defined in your zoning ordinance. Prior to the adoption of your regulations, you should check to see if you deleted from the text any words or terms contained in the definition section. If so, delete them from the definition section; there is no need to define words or terms not used in the text. Municipalities without zoning ordinances need not be concerned about consistency of definitions but should define all important terms used in subdivision regulations.

The comprehensive plan, in its housing section, should set target sales prices or rent levels which are "affordable." The State Planning Office has established rules spelling out how those targets are to be set (see SPO Rules Chapter 100, Affordable Housing Definition Rule).

Tying together the CIP and the requirements for various public improvements or facilities within subdivisions can provide an effective means of directing growth within various parts of the community. This linkage is also essential if impact fees are to be applied to new developments.

A Capital Investment Plan is a required element of a municipal comprehensive plan (see Title 30-A M.R.S.A., §4326, sub-§3.B).

In many local zoning ordinances these types of subdivisions are known as "open space subdivisions" instead. If your zoning ordinance refers to cluster subdivisions by some other

sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, 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 unless waived, after the applicant's written request, by a vote by the Board. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

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

Comprehensive Plan: A document or interrelated documents adopted by the Legislative Body, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4, including

name, use that name in the definitions and elsewhere in the regulations, as appropriate.

The subdivision law requires the Planning Board to issue the applicant a written receipt upon receiving an application and to notify the applicant in writing upon determining that the application is complete. These steps are important because a hearing or decision must be made within certain time requirements from the determination that a complete application has been submitted and accepted by the Planning Board.

This term is defined because the completion of substantial construction has been used by the courts as a determination of when a developer's rights to complete a subdivision vest if the local ordinances or regulations change subsequent to the granting of approval. Later in Article __, the *Model* suggests that failure to complete substantial construction within five years of approval results in the lapse of the approval. For a Maine case that discusses the issue of vested rights after development approval see *Thomas v. Zoning Bd. of Appeals of the City of Bangor* (1978).

According to Title 30-A M.R.S.A. §4404, sub-§9, a subdivision must conform 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..

the strategies for an implementation program which are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.

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. For the purposes of these regulations, the watershed boundaries shall be as delineated in the comprehensive plan, or as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

An alternative to referencing a map in the comprehensive plan is to include a watershed boundary map as an appendix of the regulations.

Commentary

Driveway: A vehicular accessway serving two lots 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, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BOD5 and total suspended solids concentrations than domestic waste water.

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

This term has been defined to avoid disputes over what is a street, which needs to meet certain design standards, and what is a driveway.

This definition is taken from the Maine Subsurface Wastewater Disposal Rules, administered by the Department of Human Services. Any "engineered system" must be reviewed and approved by the Department's Plumbing and Waste Water Disposal Program prior to the issuance of a permit by the local plumbing inspector.

This is the definition contained in the statute (Title 30-A M.R.S.A., §4401, sub-§2-A).

This is the definition contained in the Mandatory Shoreland Zoning Act (Title 38 M.R.S.A., §436-A).

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 a limiting factor such as seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

100-Year Flood: The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

High Water Mark, Coastal Waters: See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

High Water Mark, Inland Waters: See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

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*, most recent 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

Level of service is the basic measurement which is used to indicate how well a highway or intersection is functioning. Article 10 refers to level of service to establish a standard for the acceptable impacts a proposed subdivision may have on the road system.

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 that are unsuitable for development as outlined in Article 10.

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

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.

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 _____.

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 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and

Some communities also require in the Zoning Ordinance that each individual lot must have a certain minimum amount of suitable area. Be careful the methods for determining minimum lot area and net residential density work together logically.

The date in this definition is from the statute (Title 30-A M.R.S.A., §4401, sub-§5).

This definition is taken from the Rules Relating to Drinking Water administered by the Department of Human Services. Any “public water system” is required to have a license from the Department’s Drinking Water Program.

The idea behind a “recording plan” is to avoid having the plan that is recorded at the Registry of Deeds contain information which is not relevant to transfers of property interests (but which must be reviewed by the municipal review authority). If a recording plan is used, it

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% or less 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.

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

Street Classification:

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

List streets designated as arterials in the comprehensive plan or other planning document.

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

should make clear reference to the review authority's files in the municipal office for the information which is not shown.

There are a variety of methods to assure that housing units that are built as "affordable housing" remain affordable housing, and are not later sold or offered for sale at market prices. See Title 33 M.R.S.A., §§121-126, for instance, regarding affordable housing covenants.

It is important to list the arterial streets here, if there are any in the municipality. Later in the standards there are particular standards that apply to subdivisions which front on arterial streets, not listing them may lead to controversy as to when those standards apply. **The comprehensive plan should contain a functional classification of all the streets in the municipality in which the arterial streets are identified.**

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 eight dwelling units, which is not intended to be dedicated as a public way.

Subdivision: The term shall be defined as in Title 30-A M.R.S.A. §4401, sub-§4, as amended. *Optional addition to this definition:* A lot of 40 or more acres shall not be counted as a lot for the purposes of this definition when the parcel of land being divided is located entirely outside any shoreland areas as defined in the Town of _____ Shoreland Zoning Ordinance.

The definition of “Private Right-of-Way” is included because the street design guidelines in Article 10 allow roads which are to remain private and serve a limited number of lots or dwelling units to be built to lesser standards than roads which are to be dedicated as public ways. The number of dwelling units that are allowed to be served by a private right of way is flexible, and the number chosen here is arbitrary. Your municipality may wish to choose a higher or lower number, or not limit the number of lots or dwelling units at all.

This model recommends that the statutory definition of a “subdivision” should not be duplicated in the text of the subdivision regulation, as it takes up too much space and is frequently amended by the Legislature. Instead the suggested definition cites the statute. It may be advisable to print the most current definition from the Statute in an appendix, so that it may be easily switched after any legislative action.

When the review authority is operating under a subdivision regulation or ordinance, there is an option to exempt lots of 40 acres or more as lots for the purposes of the definition of a subdivision, but only if there is no designated shoreland area on such a lot, and the regulation or ordinance expressly authorizes this option. See Title 30-A M.R.S.A. §4401, sub-§4 C. In our region, given the relatively small size of most land holdings, we do not recommend adding the optional sentence to the definition.

The statute also allows a municipality to expand the definition of a subdivision to include the division of a structure for commercial or industrial use. If a municipality wishes to expand its definition of a subdivision in such a way, it must do so by enacting an ordinance, not by having the review authority establish regulations. This is the only other modification of the statutory definition of subdivision allowable. See Title 30-A M.R.S.A. §4401, sub-§4 H-1.

Leased dwelling units (apartments) are automatically treated as being covered by the definition of subdivision, unless the review authority has another procedure, such as conditional use or site plan review, and the review authority has determined that such

Commentary

review criteria process is as stringent as the subdivision review. See Title 30-A M.R.S.A. §4401, sub-§4 G.

The statute exempts other types of divisions from the definition of subdivision, and these exemptions must be acknowledged by the review authority. You may wish to contact your regional planning commission or the Maine Municipal Association Legal Services Department for specific advice on these exemptions, as they arise. See Title 30-A M.R.S.A. §4401, sub-§4 A through H.

Subdivision plans should show the entire “tract or parcel” which includes every contiguous piece of land that has been in one ownership within the last five years, unless it is separated by an existing road.

Tract or Parcel of Land: All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

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 4 - ADMINISTRATIVE
PROCEDURE**

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

Preparing a written agenda is important so that Board members are properly prepared for the meetings and the public is notified about the business the Board will be conducting. This section should be modified to reflect the actual procedures your municipal review authority will use. If your municipality uses a different system, that procedure should appear here. Refer to the code enforcement officer or the town clerk if either person is the one to contact to be placed on the agenda.

ARTICLE 5 - SKETCH PLAN MEETING AND SITE INSPECTION

5.1 Purpose.

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

5.2 Sketch Plan Meeting Procedure.

- A. The applicant shall present the Preapplication Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.
- C. The date of the on-site inspection is selected.

5.3 Sketch Plan Submissions.

___ copies of the sketch plan and all supporting materials must be submitted ___ days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings

The preapplication meeting and on-site inspection allow the applicant and the review authority to exchange information and concerns prior to the applicant's expenditure of large sums of money on consultants. This is the time for the review authority to express general concerns such as traffic or wetlands impacts, or to point out that the applicant is proposing half acre lots in the one acre zone, etc. However, the review authority should not conduct an exhaustive review of whether standards can be met, since it only has sketch information at this stage. The applicant also can not rely upon acceptance of the sketch plan by the Board as any firm indication that all standards can be met by the proposed project.

There is no decision regarding the preapplication meeting and sketch plan. It is an informal meeting prior to the submission of an application. Some Planning Boards have been drawn into situations where they have several preapplication sketch plan meetings where they try to explore and resolve all known issues before allowing the applicant to proceed to the preliminary plan step. This should be avoided, so that substantive review does not begin until an actual preliminary plan application is filed.

The sketch plan need not be an elaborately engineered plan. The best approach is to draw the sketch plan on the assessor's maps, scale permitting. The sketch plan should show the concepts of development, indicating generally the location of lots, roads and other improvements. The sketch plan should also give some information about the site itself such as the general location of wetlands, steep slopes, good views, and type of existing vegetation.

and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The sketch plan shall be accompanied by:

- A. A sketch plan application form, and a sketch plan application fee of \$___;
- B. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision; unless the proposed subdivision is less than 10 acres in size.
- C. A copy of that portion of the York County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development, and
- D. A written project narrative as described above.

5.4 Contour Interval and On-Site Inspection.

Within thirty days of the sketch plan meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan. The applicant shall place “flagging” at the

The U.S.G.S. map is helpful in locating the proposed subdivision within the town and providing some information on the topography of the site.

The county soil survey is useful to provide information regarding the general nature of the soils and to alert the review authority and the applicant as to the potential presence of wetlands.

The on-site inspection provides an excellent opportunity for members of the board to become familiar with the site in a manner that can not be matched by reading even the most detailed plans. During the on-site inspection the board should walk over those portions of the property which are proposed for development. While on the inspection, the board should pay close attention to drainage, slope, and indications of soils types; look at the sight distances at proposed intersections or driveways; notice particular views from the property

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

5.5 Rights not Vested.

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

and other amenities (stone walls, old orchards, stands of old trees, etc.) that should be taken advantage of by the applicant; and look for neighboring land uses or conditions which should be taken into account by the design of the subdivision. If there is deep snow on the ground, many of the features which members need to see will not be visible, particularly wetlands and minor drainage areas. Therefore it is recommended that on-site inspections not be held when the ground is covered with snow. Some boards have said that on-site inspections will not be held during December, January, February and March regardless of the snow conditions. When scheduling on-site inspections, keep in mind hunting season, and the safety of the participants.

The board should also remember that the Right to Know Law provisions of Title 1 M.R.S.A., §§401-410 apply to on-site inspections. Therefore notice must be given as required by §406, the public must be allowed to accompany the board and minutes should be taken in the same manner as for regular meetings.

At its next meeting following the on-site inspection, the board should discuss the inspection and note various conditions or features found. The board should then write a letter to the applicant highlighting its findings from the inspection and informing the applicant of the contour interval to be required for the application.

The *Model* does not specify a contour interval that needs to be shown on the plans, leaving it to the discretion of the board to make its decision. Requiring a contour interval of five feet in the mountainous sections of the state can result in an unnecessary burden to the applicant and a plan with contour lines so close together they can not be read. Likewise, requiring a contour interval of ten feet on a flat parcel will result in little useful information. For a subdivision with fairly large lots (greater than two acres) it may not be necessary to have detailed topographic information over the entire development. Perhaps, in that case, two different contour intervals could be specified: one along the areas where development activity will be taking place and another away from those areas.

Title 1 M.R.S.A., §302 is the statute that protects pending applications from changes in the law. Title 1 M.R.S.A., §302 reads, in part,

Actions and proceedings pending at the time of the passage, amendment or repeal of an Act or ordinance are not affected thereby... For the purposes of this section and regardless of any other action taken by the reviewing authority, an application for a license or permit required by law at the time of its filing shall be considered to be a pending proceeding when the reviewing authority has conducted at least one substantive review of the application and not before. For the purposes of this section, a substantive review of an application for a license or permit required by law at the time of application shall consist of a review of that application to determine whether it complies with the review criteria and other applicable requirements of law.

Commentary

By including Section 5.5 the municipality is indicating that no application has been received, nor reviewed, and that merely having a preapplication meeting does not vest the rights of the applicant from possible subsequent changes in the zoning ordinance or subdivision regulations. It is for this purpose that the *Model* suggests that the requirements for the preapplication meeting and the sketch plan be very simple and not require substantial expenditures by the prospective applicant.

Title 30-A M.R.S.A., §4403, sub-§1 requires the review authority to maintain a permanent record of all its meetings, proceedings and correspondence.

5.6 Establishment of File.

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

ARTICLE 6 - PRELIMINARY PLAN APPLICATION

6.1 Procedure.

- A. Within six months after the on-site inspection by the Board, the applicant shall submit an application for approval of a preliminary plan at least 14 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or by hand to the municipal offices. Failure to submit an application within six months shall require resubmission of the Sketch Plan to the Board. The preliminary plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for preliminary plan shall be accompanied by a nonrefundable application fee of \$300, plus \$50 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay an escrow fee of \$250 per lot or dwelling unit, to be deposited in a special escrow account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with the Zoning Ordinance and Subdivision Regulations. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that the balance be brought back up to the original

There is one main reason for the six-month requirement. Frequently there may be a change in membership on the review authority within a six month period, and this provision makes sure that the membership which reviews the application is the same one that conducted the on-site inspection and preapplication meeting. Often the Board may have trouble remembering the site details or important issues, if the time interval is longer than six months. However, the review authority could easily grant an extension to the six-month requirement if requested.

Note that because the Sketch Plan is considered a "preapplication" and not a "substantive review," if the zoning ordinances or subdivision regulations have substantially changed since the Sketch Plan submittal, it allows the municipality to apply the new standards to the new preliminary plan application. Section 7.1.A should reflect the actual procedures and personnel that the review authority uses or wishes to use to handle the logistics of establishing agenda for meetings. The *Model* recommends 14 days in advance of a meeting, with the idea that the agenda will be posted seven days in advance. This leaves sufficient time for staff and Board members to review the application, possibly request consultant assistance, and prepare the agenda and notices. If applications are submitted directly to the chairperson of the review authority or to the code enforcement officer, this section should state so.

This fee arrangement was adopted by the Town of Alfred in 2005, and is designed to assure the review authority the funds necessary to hire assistance in the review of the subdivision without expending funds from the municipal general fund. This assistance may be consulting engineers on storm water management, hydrogeologists on ground water impacts, or a planner from the regional council to assist with overall review. Prior to adoption of the regulations with this type of fee system, the municipal treasurer or bookkeeper should be consulted regarding the procedure for establishing the special accounts, charging appropriate funds against them and refunding the balance. If your municipality has staff such as a town planner or engineer, and the Town wishes to recover some of the costs of these positions, you may wish to refer to them in Section 7.1.B, in addition to "independent consulting services."

If the municipality chooses to regulate a nonresidential structure as a subdivision, as permitted by Title 30-A M.R.S.A., §4401, sub-§4, ¶H, Section 7.1.B should include a reference to the fee for units in these types of subdivisions as well.

deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. Any balance in the escrow account remaining after a decision on the final plan application by the Board shall be returned to the applicant.

- C. The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.
- D. Within three days of the receipt of the Preliminary Plan application, the Board, or its designee, shall:
 - 1. Issue a dated receipt to the applicant.
 - 2. Notify in writing by First Class Mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
 - 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- 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 Board shall notify the applicant

This dated receipt is required by Title 30-A M.R.S.A., §4403, sub-§3. A model receipt can be found as Appendix E. If the application is submitted to someone other than the review authority, that individual should issue the receipt.

The written notification of abutters by the review authority is required by Title 30-A M.R.S.A., §4403, sub-§3. A model notice can be found as Appendix F.

The written notification of neighboring municipalities by the review authority is required by Title 30-A M.R.S.A., §4403, sub-§3 only when the subdivision abuts or crosses the municipal boundary. A model notice can be found as Appendix G. The review authority may wish to notify neighboring municipalities in other cases, such as if the subdivision is in the watershed of a neighboring municipality's public water supply or the watershed of a great pond/waterbody subject to phosphorus control provisions or is accessed only by a local road leading from an adjacent municipality. Appropriate language should be inserted into this section.

If the application is initially reviewed by someone other than the review authority, this section should be revised to reflect the procedure. Some municipalities have the town planner or a consulting planner review the application for completeness, so that the review authority's time is not spent on administrative tasks.

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 notify the applicant in writing. The Board shall also notify the Road Commissioner, Fire Chief and Superintendent of Schools of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily, 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. 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 that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. 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 sent by First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.
- H. Within thirty days from the public hearing or within sixty days of determining a

The determination of a complete application within 30 days is required by Title 30-A M.R.S.A., §4403, sub-§3. In determining whether the application is complete, the review authority should merely determine whether all the spaces on the application form are filled out and whether all the items required by the submissions section, below, are present without regard to whether they meet the standards of the regulations or criteria of the statute.

There is no need to begin a substantive review of the application until a complete application has been submitted. A model letter indicating that an application is incomplete can be found as Appendix H.

The issuance of a written determination of a complete application is required by Title 30-A M.R.S.A., §4403, sub-§3. A model letter can be found as Appendix I.

The requirement to contact municipal department heads to request comments on the adequacy of current facilities to service a proposed subdivision is related to the requirement in Section 7.4.C that a proposed subdivision which can not be adequately served be developed in phases to allow for the expansion of capital facilities. See the commentary at Section 7.4 for more discussion.

The statute allows, but does not require the review authority to hold a public hearing. **The decision to hold a public hearing should be based upon the response the review authority received to the notification of the abutters, the location of the proposed subdivision in relation to important natural resources identified by the comprehensive plan, and the size of the subdivision and its impact upon the town.** Many review authorities have decided to hold a public hearing on all applications, and have written their regulations so that a public hearing is mandatory. If you decide to leave it to the discretion of the review authority, the review authority must be careful to be fair and equitable in making the decision of whether to hold a hearing.

The purpose of the public hearing is to allow individuals other than the applicant to present testimony regarding the application and whether it meets the criteria of the statute and the standards of the regulation. The Board should discourage public testimony on whether the subdivision is desired or unwanted, but rather should try to focus discussion on whether or not the proposed project meets all applicable review standards.

The thirty day limit and the newspaper notice are requirements from Title 30-A M.R.S.A., §4403, sub-§4. A model notice can be found as Appendix J. If the review authority has heard from abutters, it may want to make sure they are notified of the hearing. Mailed notice

Commentary

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,

of any hearing is not required by statute, but is recommended in this model. Certified Mail is often used by municipalities who wish to document the mailing, but the requirement for the recipients to come to the post office to sign for the notice is often a hindrance, and often leads to complaints of late notice. The only mailed notice required by the statute is when the preliminary plan application is initially received (see above, sec. D).

Time limits in Section 6.1.H are dictated by Title 30-A M.R.S.A., §4403, sub-§5. The statute does allow the time limit for a decision to be extended with the agreement of the applicant. A model agreement to extend the time limit for review can be found as Appendix K.

The actual decision-making process itself is very important. The statute (Title 30-A M.R.S.A., §4403, sub-§6) requires the review authority to “make findings of fact establishing that the proposed subdivision does or does not meet the criteria.” Findings of fact are a summary of the record before the review authority and a recitation of the information on which the authority bases its conclusions whether the criteria are met. **If the review authority is going to deny the preliminary plan application, the decision should be treated as a final decision and formal findings of fact, conclusions and a decision should be drafted.** Appendix L is a model notice of decision that includes sample findings of fact. The importance of making proper findings of fact can not be over emphasized. Without them, a judge can not determine how the reviewing body made its decision, should the case end up in court. **If the review authority is going to approve the preliminary plan application, then the decision may be treated as a preliminary decision and formal findings of facts need not be prepared.** Appendix M is a model notice of approval of preliminary plan application.

The preliminary approval should spell out the context for the preparation of the final plan. The approval should require or suggest changes which should be incorporated into the final plan, indicate if any of the required improvements are to be waived, and indicate for which required improvements performance guarantees will need to be filed.

Approval of the preliminary plan does not confer any rights to the applicant nor infers any forthcoming final approval. A review authority, however, should not approve a preliminary plan that does not meet the standards, with the idea that it can always deny the final plan application. It should be noted that although preliminary approval confers no rights to the applicant, Title 1 M.R.S.A., §302 confers rights to applications which are pending at the time an ordinance or regulation changes. Initiation of review of the preliminary plan application, once found by the review authority to be complete, will protect an applicant from future changes to a zoning ordinance or subdivision regulations, should the application eventually receive final approval.

the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

6.2 Mandatory Submissions for Preliminary Plan.

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12. _____ copies of all materials shall be delivered to the Town Office, at least 14 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

A. Application Form.

_____ copies of the application form and any accompanying information.

B. Location Map.

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

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

The number of copies should be determined by the size of the Review Authority, and size of town staff, number of consultants, etc.

A model application form can be found as Appendix D. The application form should provide basic information about the applicant and the subdivision which need not be shown on the plan itself.

The purpose of the location map is to place the subdivision in context with the surrounding neighborhood. The scale or size of the location map is not important as long as it clearly shows all the necessary data. Based on the presence of existing roads or other uses, the review authority may suggest changes in design of the subdivision, for example, to provide for better interconnection of streets or buffer homes from neighboring commercial uses.

This is not necessary if your community has not adopted a zoning ordinance.

4. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
- C. Preliminary plan. The preliminary plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. The application materials for preliminary plan approval shall include the following information.
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 by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
 3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last

The scale of the plan will be determined by the size of the subdivision and the lot sizes. At one inch per 100 feet, not much over 100 acres will fit onto a standard 24" by 36" sheet.

Some of this information will appear on the application form, some on the plan, and some may accompany the plan in written reports. The review authority has the responsibility for making sure all twenty of the review criteria from the statute are met. The list of submission items below has been written so that, in most cases, enough information is submitted to make that determination. There may be an occasional case where information is necessary regarding a particular criterion that will not be included on the list of submission items. This section is written to give the review authority the ability to request that information. Municipal officials and applicants alike should keep in mind that the statute clearly puts the burden of proof on the applicant to show that all twenty criteria have been met. Failure to submit information regarding any one criterion therefore could result in a denial of the application. **The review authority, prior to issuing a denial based on lack of information, should make sure that the applicant has had the opportunity to submit that information, and offer to extend the review time frame if necessary.**

The review authority need not take time to review an application from an applicant who has no right to appear before them. If the applicant does not wish to reveal the agreed upon price of the property, the Board may allow the price to be "blacked out" on the copy of a purchase and sales agreement submitted. However, any agreement to purchase should be executed.

The survey should include the entire parcel, meaning all of the contiguous land in common ownership within the last five years. The Maine Board of Registration of Land Surveyors sets standards for the completion of different types of surveys. According to these standards, the surveyor must certify which of the categories of survey the plan meets and certify the degree of accuracy to which the survey was completed. Occasionally the certification will note exceptions to the rules or standards or reference a written report. The review authority should receive a copy of that report if one is produced.

Commentary

five years, as required by Title 30-A M.R.S.A. section 4401.

4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the _____ sewer district stating the district has the capacity to collect and treat the waste water shall be provided.
 - b. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.

Frequently, the covenants or deed restrictions will concern subject matters which are relevant to the review process, such as limits on clearing of trees. In reviewing proposed covenants, the review authority should keep in mind however, that many covenants deal with subject matters that are of no concern to the subdivision review process, and are private agreements between the developer and the purchasers. As private agreements, covenants are not enforceable by the municipality. If there is an active dispute over covenants, deed restrictions, easements or rights-of-way, the Planning Board has no jurisdiction to settle such disputes by deciding which side is correct. Such matters can only be resolved by the Superior Court.

If your municipality has no public sewerage, this paragraph should be deleted. The name of the sewer district should be inserted here. During preliminary plan review only a general indication of ability and capacity to serve should be necessary. During final plan review, the sewer district will be asked to review the detailed design plans for sewerage.

The map should indicate the locations of all test pits dug on the site, not solely the passing sites. Seeing the locations and reading the logs of the sites that do not pass will reveal much information regarding the site.

If your municipality has no public water system, this section should be deleted. The name of the water district or company should be inserted here. During preliminary review only a general indication of ability to serve should be necessary. During final plan review, the water district will be asked to review the detailed plans for the water system.

Commentary

8. The date the plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
10. Wetland areas shall be delineated on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features.
12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
14. The location and size of existing and proposed sewers, water mains, culverts,

The statute requires that the “name and address of the person under whose responsibility the subdivision plat or plan was prepared” be shown on the plan which is recorded. The names and addresses of adjoining property owners are included because the statute requires their notification when the application is received.

The statute requires that all freshwater wetlands, regardless of size, be shown on the plan. If the subdivision contains any coastal wetlands, they should also be identified. Based on the definition of wetland contained in the statute and the *Model*, the best method of identification will be through a high intensity soil survey. The definition refers to conditions of saturation of a frequency and duration to support wetland vegetation, not necessarily the presence of that vegetation.

This information gives the review authority a good representation of the existing conditions on the parcel to be subdivided. Some of the information, such as the existing vegetation characteristics, the location of large trees and the area to be cleared for lawns will be used by the review authority in making the determination whether the statutory criteria regarding soil erosion, impact on great ponds, and natural beauty and aesthetics are met. If the municipality is heavily wooded in mature stands of timber, it may not make sense to require large specimen trees to be shown on the plan. However in areas of the state that experienced the forest fires of the late 1940s, there are many areas that have relatively few trees of good size and their indication on the plan and preservation may contribute to the visual character of a subdivision.

This information is required by the statute and is necessary to make a determination of the proposed subdivision’s impacts on water quality and shorelines.

The review authority must know in which zoning district(s) the proposed subdivision is located in order to determine whether the zoning requirements are met. If the municipality has no zoning, this section should be deleted.

If there is no public sewer or water in your municipality, delete reference to them in this section.

Commentary

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 width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
17. The proposed lot lines with approximate dimensions and lot areas.
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management.
20. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.

The information on existing streets will be used to determine whether provision must be made for future widening of the streets. The proximity of parks or other open space to the proposed subdivision will be used to determine the need for the applicant to set aside open space within the subdivision.

An official map and an official map ordinance are mechanisms by which a municipality can layout future roads or other public facilities in advance of their construction and prohibit development from taking place within the designated right of way. Once adopted, new development would need to be designed as if the future improvements were in place. **Similarly, without having the regulatory control of an official map, if new facilities are called for in the comprehensive plan, new subdivisions should be designed with them in mind.** Few municipalities in Maine have enacted an official map and official map ordinance. If your municipality has not, do not include reference to it this section. (Note: A zoning map is not the same as an official map.)

Whereas this is only a preliminary plan, lot line lengths and bearings and lot areas need only be figured approximately.

Dedication of land in a subdivision can be an inexpensive way for a municipality to obtain open space, park land or land for other needed public facilities. If the applicant intends that any land in the subdivision be open to use by the public or be turned over to public ownership, that land should be identified on the preliminary plan. In addition, any conditions of the dedication should be specified so that the proper municipal officials can determine more thoroughly the costs and benefits of public ownership.

The application should not simply identify open space parcels but should provide a description of how they are to be managed and improved. Will the open space parcel be used for play fields or simply as a wood lot? Who will be responsible for their maintenance? Will they be owned by a lot owners association or given to the municipality or some conservation organization? At the preliminary plan stage, the Board should not require specific homeowners' association bylaws or condominium documents, but rather just a general indication of how common elements will be managed and maintained.

The statute requires the review authority to make a finding that the proposed subdivision will not have undue adverse impact on the scenic or natural beauty of the area. While the *Model* does not suggest a standard for limits on the conversion of woods to lawn, this section does require the plan to restrict cutting to those areas designated by the applicant. The area to be converted from wooded cover to lawns or other cover is necessary for determining compliance with the phosphorus control standards when the proposed subdivision is located

Commentary

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

22. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

23. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the comprehensive plan or by the Maine Historic Preservation Commission as sensitive or

in the direct watershed of a great pond.

This is required by the statute. Not all Maine municipalities have Flood Insurance Rate Maps (FIRM). If your municipality is only in the emergency phase of the National Flood Insurance Program, a FIRM will not have been published yet. In those municipalities, this section should refer to a Flood Hazard Boundary Map instead. It should be noted that the statute requires the applicant to determine the hundred year flood elevation and flood hazard boundaries in the subdivision. For most smaller streams the Flood Insurance Study performed by the Federal Emergency Management Agency does not indicate the hundred year flood elevation. Where the flood elevation has not been calculated, the flood area is designated on the FIRM as an unnumbered A zone. When any portion of a subdivision is within an unnumbered A zone, the applicant is responsible for calculating the flood elevation. The Floodplain Management Coordinator in the Office of Community Development can provide assistance.

The Maine Department of Inland Fisheries and Wildlife "Beginning with Habitat" Project has cataloged and mapped significant wildlife resources. Maps have been produced for many of the organized municipalities. Municipal officials should contact their regional council, the Department of Inland Fisheries and Wildlife regional office, or www.beginningwithhabitat.org to find out if their municipality has been mapped. **The comprehensive plan should also contain a description of significant wildlife resources found in the town.**

The Maine Historic Preservation Commission maintains a listing of sites which have been listed or are eligible to be listed on the National Register of Historic Places. The Commission can also provide information regarding areas which are likely to contain prehistoric resources.

likely to contain such sites.

D. Required Submissions for which a Waiver May be Granted. The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12, Waivers. ___ copies of all materials shall be delivered to the Town Office, at least 14 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. A high-intensity soil survey by a registered soil scientist.
2. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level.
3. Hydrogeologic assessment.
A hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:
 - a. Any part of the subdivision is

The first 23 items listed above are required at all times for all preliminary plan applications. However, the items in this section D may not be necessary for applicants to submit in all cases. Article 12 sets out a procedure for the applicant to request submission waivers, for permission to be relieved of the responsibility of making the se submissions.

Insert the proper number of copies as before.

A high intensity soil survey may not be necessary in addition to a wetlands delineation, if the application is at a very low density and lots will be large enough to find house sites on suitable soils.

Some information on elevation is required by the statute. See the previous discussion in Section 5.4 regarding setting contour intervals. However, in some cases in flat areas or for small projects it may be perfectly satisfactory for the contour lines to be interpolated from the U.S.G.S. topographic maps. In any event, the plan submitted should indicate how the topographic information was derived.

Where there is road construction or grading changes in elevation or slope, the contour lines should be required, and based on field survey or aerial photogrammetry. If a phosphorus impact analysis and control plan are required, the contour interval must be no more than five feet.

The statute requires that the applicant show there will be no adverse impact on ground water quantity or quality from the proposed subdivision. This section sets out the criteria for when a formal evaluation of the potential impacts must be submitted. It also suggests other cases when a review authority may require an impact analysis to be submitted. With residential development, the major concern is nitrate contamination from septic systems. A less serious concern is the potential impacts on ground water quantity from consumption and decreased

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, 1998, File No. 98-138, 144 and 147; 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 groundwater 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 wastewater disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of section 10.9 below.

4. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent available edition of the Trip Generation Manual, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
5. Traffic Impact Analysis. For subdivisions involving 28 or more parking spaces or projected to generate

recharge due to increased impermeable surfaces. Generally, with an average density of less than one dwelling unit per 100,000 square feet ground water impacts should not be of concern. There are instances, however, where due to site considerations or the design of the development an assessment should be conducted. Section 10.9 provides the detailed information the assessment must contain.

The estimate of traffic will be used to "classify" the entrance to the subdivision for the purpose of applying the review standards in Section 10.15, and for determining whether a traffic impact analysis will be required.

Under this section, a traffic impact analysis is required for any single family residential subdivision with 14 or more lots or units (if the estimate models 10 trips per day per unit). Any development which generates 100 passenger car equivalents in a peak hour requires

Commentary

more than 140 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

- E. The Planning Board may require any additional information not listed above, when it is determined necessary by the Board to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 have been met.

review and permit from the Department of Environmental Protection under the 1996 changes to the Site Location of Development Laws.

ARTICLE 7 - FINAL PLAN APPLICATION

7.1 Procedure.

A. Within six months after the approval of the preliminary plan, the applicant shall submit ___ copies of an application for approval of the final plan with all supporting materials, at least 14 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal

There are two reasons for the six-month requirement. The main one is that frequently there may be a change in membership on the review authority within a six-month period. This provision helps ensure that the individuals on the Board which reviews the final plan are the same that reviewed the preliminary plan. Secondly, if the zoning ordinances or subdivision regulations have substantially changed, it allows the municipality to apply the new standards to a new application, once the six month period has expired.

Section 7.1.A should reflect the actual procedures and personnel that the review authority uses or wishes to use to handle the logistics of setting up agendas for meetings. We recommend 14 days in advance of a meeting, with the idea that the agenda for the meeting will be posted seven days in advance. If applications are submitted to the chairman of the review authority or to the code enforcement officer this section should state so.

Review of a proposed development by a non-municipal jurisdiction, such as the Department of Environmental Protection or the Army Corps of Engineers may occasionally take more than six months. The *Model* allows an applicant to request an extension of the six month filing requirement. The review authority may grant the request when it finds that the applicant has made a diligent effort to be timely and that the zoning ordinance, subdivision regulations or other municipal requirements which control the subdivision have not changed.

ordinances or regulations which may impact on the proposed development have not been amended.

B. All applications for final plan approval for a major subdivision shall be accompanied by a nonrefundable application fee of \$300, payable by check to the municipality. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the application for final plan approval, along with any supporting materials, pursuant to the procedures of section _____.

C. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:

1. Maine Department of Environmental Protection, under the Site Location of Development Act.
2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed.

The amount of the final plan application fee should be lower than the preliminary fee, since most of the work of the review is accomplished in the preliminary plan stage. This is the fee charged by the Town of Alfred in 2005. See the discussion in Section 7.1.B regarding fees for the preliminary plan. The escrow account established at that time will still be available for paying for consulting services to assist in reviewing the plan. Therefore, the final plan fee should be based on non-technical costs such as clerical assistance to the review authority.

If the municipality chooses to regulate a nonresidential structure as a subdivision, as permitted by Title 30-A M.R.S.A., §4401, sub-§4, ¶H, Section 7.1.B should include a reference for the fee for units in these types of subdivisions as well.

This provision has been included to provide better coordination between municipal review and any necessary state or federal review. If changes in a plan are required by a state agency, and the plan has already been approved by the municipal review authority, a revised plan would need to be reviewed and approved by the municipal review authority. Coordination of review avoids that potential problem.

Approval of subdivisions by the Department of Environmental Protection may be required under the Site Location of Development Law, generally, if the subdivision contains thirty acres or more and 15 or more lots. In certain municipalities designated by the Department as having advance review capacity, the threshold for residential subdivisions is increased to 15 or more lots with an aggregate land area of more than 100 acres. For non-residential subdivisions, the threshold for review by the Department remains at 5 or more lots on an aggregate of 20 acres.

The Natural Resources Protection Act regulates activities generally within 100 feet of a stream, river, great pond, coastal wetland, freshwater wetland, fragile mountain areas and significant wildlife habitat. The Stormwater Law and Chapter 500 Regulations require a stormwater permit when one acre or more is disturbed. Discharges of waste water into surface water bodies require a license from the Department under the MEPDES (Maine Pollution Discharge Elimination System).

Commentary

3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit

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

Approval from the Department of Human Services' Drinking Water Program is necessary for any water supply system which will have fifteen connections or serve nine dwelling units or more. The Drinking Water Program has taken the position that separate systems, in close proximity and in the same ownership or management, constitute one system and if the total number of lots served exceeds eight, then a license is required.

Any subsurface waste water disposal system which has a design flow of 2,000 gallons per day is required to be reviewed and approved by the Department of Human Services' Plumbing and Waste Water Control Program. Generally a system which serves six or more dwelling units will have a design flow exceeding 2,000 gallons per day.

Corps of Engineers approval is required for the placement of fill material into the "waters of the United States," including filling wetlands. The Corps has a fairly long list of activities which are covered by "nationwide permits" and do not require an application and permit to be filed. Starting in 1995, the Corps and the Department of Environmental Protection began coordinating their wetlands permitting procedures so that only a permit from the Department is necessary in most cases.

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

One word of caution is required here: Municipal review authorities should not assume that review and approval of a subdivision, or part of subdivision, by a state or federal agency necessarily means that the subdivision should be approved by the municipality. In many instances the state or federal agency may have different standards than the municipal standards. As one example, the statutory criteria in the Site Location of Development Act dealing ground water is that a development "will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur" (Title 38 M.R.S.A., §484, sub-§5). Under the subdivision statute, the municipal review authority must determine that a subdivision "will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water" (Title 30-A M.R.S.A., §4404, sub-§13). The municipal subdivision law does not mention "significant aquifers," or "unreasonable risks." Applying these two criteria clearly could result in differing decisions for the same project.

Commentary

- 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 6.2.C.23, 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. Written approval of any proposed street names from the Town of _____ E911 Addressing Officer.
- F. The Board shall not review any final plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.
- G. Within three days of the receipt of the Final Plan application, the Board, or its designee, shall issue a dated receipt to the applicant.
- H. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

A subdivision may not have an undue adverse impact on historic sites (Title 30-A M.R.S.A., §4404, sub-§8). If the area of the proposed subdivision contains or is adjacent to any sites listed or eligible to be listed on the National Register, the *Model* suggests the Maine Historic Preservation Commission be contacted to review the plans and any proposed measures to protect the historic, prehistoric or archeological resources.

This dated receipt is required by Title 30-A M.R.S.A., §4403, sub-§3. A model receipt can be found as Appendix E.

The determination of a complete application within 30 days is required by Title 30-A M.R.S.A., §4403, sub-§3. In determining whether the application is complete, the review authority should merely determine whether all the spaces on the application form are filled out and whether all the items required by the submissions section, below, are present without regard to their quality or whether they meet the standards of the regulations or criteria of the statute. There is no need to begin a substantive review of the application until a complete application has been submitted. A model letter indicating that an application is incomplete can be found as Appendix H.

Commentary

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

I. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days prior to 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 sent by First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.

K. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 11.

L. 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

The issuance of a receipt upon the determination of a complete application is required by Title 30-A M.R.S.A., §4403, sub-§3. A model letter can be found as Appendix I.

The statute allows, but does not require the review authority to hold a public hearing. The decision to hold a public hearing on the final plan application should be based upon whether a hearing was held on the preliminary plan application; the attendance at a previous hearing, if held; and whether there may be unresolved issues from the preliminary plan for which public input may be helpful.

The thirty day limit and the newspaper notice are requirements from Title 30-A M.R.S.A., §4403, sub-§4. A model notice can be found as Appendix J. Because most people do not read the legal notices column in the newspaper on a regular basis, the *Model* suggests posting of the notice at prominent places in the municipality, such as the town office, the post office, and the grocery store. The review authority may wish to use the same locations that other municipal notices are posted. The statute does not require mailed notice, but nonetheless, the model does require First Class notice if a hearing is required. The model does not recommend the use of certified mail.

A performance guarantee is an assurance that the required improvements will be installed or constructed as necessary, by the subdivider or the municipality may finish the work at the subdivider's expense. Performance guarantees are discussed in more detail in Article 11.

The time limits in this section are dictated by Title 30-A M.R.S.A., §4403, sub-§5. The statute does allow the time limit for a decision to be extended with the agreement of the applicant. A model agreement to extend the time limit for review can be found as Appendix K.

The actual decision-making process itself is very important. The statute (Title 30-A M.R.S.A., §4403, sub-§6) requires the review authority to "make findings of fact establishing that the proposed subdivision does or does not meet the criteria." Findings of fact are a

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.

7.2 Mandatory Submissions.

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and ___ full sized paper copies of all the final plan sheets and any supporting documents shall be submitted.

The final plan shall include or be accompanied by the following mandatory

summary of the record before the review authority and a recitation of the information on which the conclusion as to whether the criteria are met. Appendix M is a model notice of a decision that includes sample findings of fact. The importance of making proper findings of fact can not be over emphasized. Without them, a judge can not determine how the reviewing body made its decision, should the case end up in court. The findings of fact must include reasons why the Board found that review standards were met, and should also state what evidence the Board relied upon to determine compliance with each set of standards.

Conditions on an application must be related to meeting ordinance standards. While a particular applicant may agree to an inoffensive standard not specified in the ordinance (such as, "all new houses will be white in color"), a future board will have no grounds to refuse a future request to remove such a condition from the subdivision later on down the road.

The scale of the plan will be determined by the size of the subdivision and the lot sizes. At one inch per 100 feet, not much over 100 acres will fit onto a sheet of 24 by 36 inch size.

Title 33 M.R.S.A., §652 requires any plan to be recorded at a Registry of Deeds to:

1. Be drawn upon strong linen cloth or polyester film with archival photographic image;
2. Be embossed with the seal of an architect, professional engineer or registered land surveyor;
3. Contain the signature and address of the person who prepared the plan;
4. Provide a space for recording the county, date, time, plan book and page or file number and register's attest; and
5. Provide a title block containing the name of the plan, the record owner's name and address, the location by street and town and date of the plan.

This statute requires the county registrar of deeds to provide for storage and preservation of plans of a maximum size of 24 by 36 inches. The requirement for the plan to be recorded to be embossed, not merely stamped, should be noted in the section below.

Title 30-A M.R.S.A., §4406, sub-§1 requires that the review authority's approval appear in writing on the plan. Two copies of the reproducible original are suggested. The second copy will allow the municipality to make additional paper copies in the future, should it be necessary. If your municipality has no use for a reproducible copy (i.e., no access to a diazo printer), you may want to require only one copy. Three paper copies of the plan, and three copies of the accompanying material are requested in order to provide copies to other municipal officials to review and to have a copy available for the public to review. This

Commentary

submissions of information.

- A. Completed Final Plan Application Form and Final Plan Application Submissions Checklist.
- B. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- D. An indication of the type of water supply system(s) to be used in the subdivision.
 - 1. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design.

number should be adjusted accordingly to account for the size of your municipal staff or number of consultants.

Once the plan is approved, the assessor(s) and code enforcement officer should each receive one copy for their records. Depending on the size of the staff or number of municipal officials (engineer, public works director, road commissioner, planner) in each municipality, this number should be adjusted. Receiving materials in advance will allow the members of the review authority to become familiar with the application prior to the meeting and will help make the meetings and the review process more efficient.

During preliminary review, the sewer district merely indicated that they could adequately treat the waste water from the proposed subdivision. As part of the final review, the *Model* suggests that they review and approve the design for the sewage system to be installed.

During the preliminary review, the water district merely indicated that they could adequately supply the proposed subdivision with volume and pressure. As part of the final review, the applicant must submit approval of the water system design.

Commentary

2. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
 3. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- E. The date the plan was prepared, north point, graphic map scale.
 - F. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
 - G. The location of any zoning boundaries affecting the subdivision.
 - H. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
 - I. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
 - J. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain

This includes approval by the Chief of any alternate sources of water for fire protection such as underground tanks or ponds with dry hydrants.

The statute requires "the name and address of the person under whose responsibility the subdivision plat or plan was prepared" be shown on the plan.

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 professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.

K. Street plans, meeting the requirements of Section 10.15.

L. The width and location of any proposed new streets or public improvements or open space within the subject property that are shown upon the official map, in the comprehensive plan, or Capital Improvements Program, if any.

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 municipality of all public ways and open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be managed and maintained shall be submitted. These may include homeowners' association by laws and condominium declarations. If proposed

An official map and an official map ordinance are mechanisms by which a municipality can lay out future roads or other public facilities in advance of their construction and prohibit development from taking place within the designated right of way. Once adopted, new development would need to be designed as if the future improvements were in place. **Similarly, without having the regulatory control of an official map, if new facilities are called for in the comprehensive plan, new subdivisions should be designed with them in mind.** Few municipalities in Maine have enacted an official map and official map ordinance. If your municipality has not, do not include reference to it in this section. (Note: A zoning map is not the same as an official map.)

The application should clearly identify any areas to be dedicated to public use and/or ownership. If any land is to be given to the municipality there should be a written description of the terms of that dedication and a proposed deed submitted. Someone at the municipal office, whether it is the municipal officers, the manager and/or the municipal attorney should review these documents and comment in writing to the review authority as to their adequacy. The municipal officers or manager may wish to comment on the political or practical aspects of the dedication, while the municipal attorney should comment on the legal adequacy of the offer to convey title, and perhaps the title itself.

If common land and/or facilities are to be retained and managed, the Board needs to find that adequate provisions have been devised in the homeowner's association documents, bylaws, or condominium declaration. The Review Authority should not concern itself with private management issues unrelated to municipal concerns.

streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.

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

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

7.3 Required Submissions for which a Waiver May be Granted .

The final plan shall also include or be accompanied by the following information, unless a waiver is requested and granted pursuant to Article 12, Waivers:

A. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The Board may waive submission of the erosion and sedimentation control plan only if

This is required by the statute. Not all Maine municipalities have Flood Insurance Rate Maps (FIRM). If your municipality is only in the emergency phase of the National Flood Insurance Program, a FIRM will not have been published yet. In those municipalities, Section 8.2.P should refer to a Flood Hazard Boundary Map instead.

It should be noted that the statute requires the applicant to determine the hundred year flood elevation and flood hazard boundaries in the subdivision. For most smaller streams the Flood Insurance Study performed by the Federal Emergency Management Agency does not indicate the hundred year flood elevation. Where the flood elevation has not been calculated the flood area is designated on the FIRM as an unnumbered A zone. When any portion of a subdivision is within an unnumbered A zone, the applicant is responsible for calculating the flood elevation. Engineering procedures are published for the proper methodology to follow. The floodplain management coordinator in the State Planning Office can provide assistance.

The first items, A through P listed above, are required at all times for all final plan applications. However, the items in this section D may not be necessary for applicants to submit in all cases. Article 12 sets out a procedure for the applicant to request submission waivers, for permission to be relieved of the responsibility of making the se submissions.

Due to the importance of erosion and sedimentation control in protecting the quality of surface waters, maintaining fisheries habitat, and reducing eutrophication of great ponds, the *Model* suggests that a waiver request may be granted only if the subdivision is not within the direct watershed of a great pond and only if there is minimal development proposed.

Reviewing authorities should seek professional assistance in reviewing erosion and sedimentation control plans. Assistance in reviewing erosion and sedimentation control plans is available from some county soil and water conservation districts. Check with your county conservation district office (see Appendix R for address and phone number) to find

Commentary

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 5% of the area of the subdivision.

- B. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the stormwater 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 5% of the area of the subdivision.
- C. If any portion of the proposed subdivision is in the direct watershed of a great pond, and meets the criteria of section 10.12.D, 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 DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The

out what arrangements are possible. The review authority may wish to have the plan reviewed prior to submittal. If the conservation district is willing, add the following to the end of the first sentence of Section 7.3.A, "and reviewed by the _____ County Soil and Water Conservation District."

Due to the importance of storm water management in protecting the quality of surface waters, the *Model* suggests that a waiver request may be granted only if the subdivision is not within the direct watershed of a great pond and only if there is minimal development proposed.

Assistance in reviewing storm water management plans is available from some soil and water conservation districts. Check with your county conservation district office (see Appendix Q for address and phone number) to find out what arrangements are possible. The review authority may wish to have the plan reviewed prior to submittal. If the conservation district is willing, add the following to the end of the first sentence of Section 7.3.B, "and reviewed by the _____ County Soil and Water Conservation District."

The Department of Environmental Protection's Division of Watershed Management has identified phosphorus in run-off as the major influence on declining lake water quality. In response, the Legislature added the eighteenth criterion to the statute in 1991. This criterion requires the review authority make a finding that "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." The phosphorus control standards which must be met by a proposed subdivision are found in Stormwater Standards in Section 10.12. Assistance in reviewing phosphorus control plans is available from the soil and water conservation districts or engineering consultants.

analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.

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

7.4 Final Approval and Filing.

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

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

C. At the time the Board grants final plan

The statute (Title 30-A M.R.S.A., §4404, sub-§10) requires the applicant to have the financial and technical resources to complete the subdivision in accordance with the approved plans. If an applicant is in violation of a previous plan, that may be an indication of the inability or unwillingness to comply with approvals. Some towns have required, as part of the application, a certificate of compliance issued by the code enforcement officer which states that the applicant is in compliance with any prior approvals.

The need for findings of fact and a written decision have already been discussed earlier. The signatures of a majority of the review authority must appear on the plan in order for it to be accepted at Registry of Deeds. The assessors and the code enforcement officer each need to receive a copy of the approved plan so that their records will be complete. The *Model* suggests a requirement that plans be recorded expeditiously after approved, to avoid potential title problems in the future, should the parcel be sold in its entirety.

Commentary

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 expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised final plan is first submitted and the Board approves any modifications, in accordance with Article __. 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.

Section 8.3.C was written to ensure that a municipality retains the ability to provide an adequate level of service to new subdivisions. This section does not give the review authority the authority to deny an application, but merely require it to be built in phases over a period of time adequate to allow the municipality to plan, finance and build or purchase the necessary capital facilities or equipment. If the improvements necessary have been identified in the capital investment plan and included in a capital improvements program, the review authority may not require the phasing be spread out any longer than the date in the capital improvements program.

The plan that is recorded must be the one that is approved by the review authority. Article 8 sets out the procedures and requirements for amending a previously approved plan. Section 10.1.C allows minor engineering changes without the necessity of bringing the revisions before the review authority. If a municipality discovers that changes were made to a plan between the time it was approved and the time it was recorded, an affidavit may be filed at the Registry of Deeds declaring the plan to be invalid. To ensure proper drafting, assistance should be obtained from the municipal attorney.

Commentary

- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five 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.

Acceptance of streets, open space, playgrounds or other facilities may occur only through action of the municipal legislative body. Mere approval of a plan by the review authority does not result in acceptance of the land or facility. In many cases it may be prudent for the subdivider and the municipality to enter into a contract regarding the terms and conditions of the dedication and acceptance. For instance, prior to acceptance of a recreation area, the municipality may wish to see certain improvements made, such as grading and revegetation.

This provision is included in the *Model* to prevent approved subdivisions which are never built from causing conflict with future changes in zoning or other land use regulations. The concept of rights vesting upon the completion of substantial construction is one which has been put forward by the courts. The *Model* defines substantial construction as that which entails no less than 30% of the total costs for the subdivision. This is another reason for the review authority to receive itemized cost estimates as part of the final plan application, as suggested earlier.

ARTICLE 8 - REVISIONS TO APPROVED PLANS

8.1 Procedure.

An applicant for a revision to a previously approved plan shall, at least _____ 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.

8.2 Submissions.

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

8.3 Scope of Review.

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

This article provides guidance on how a review authority should handle revisions to previously approved plans. If any lot on an approved plan is divided, or if any lot line is proposed to be changed within an approved plan, the review authority must review and approve the change. It is a violation of the statute to construct or develop a subdivision, or to transfer any lot in a manner other than depicted on an approved plan (Title 30-A M.R.S.A. §4406, sub-§1.E).

The *Model* suggests that revisions which create new lots or dwelling units be reviewed as preliminary plans initially, and those which merely involve moving lot lines, streets or other features, without creating additional lots or dwelling units may be reviewed as final plans.

Whereas the amount and type of information required will vary with the extent of the revisions being proposed, the *Model* does not prescribe any information to be submitted. For instance, if the revision consists of a proposed vertical realignment of a road and appurtenant drainage structures, only a street profile (and possibly new erosion and sedimentation control plans) may be necessary. On the other hand if the revision consists of dividing a large lot in two, creating an additional lot, evidence of adequate water supply and sewage disposal are necessary. It may also be necessary to provide information regarding additional traffic impacts and changes in the storm water management plan to reflect modified grading and increased impermeable area. The review authority should discuss with the applicant the extent and type of information it will require to be submitted.

The statute, in Title 30-A M.R.S.A., §4407, sub-§1 requires the book and page or cabinet and sheet of the original plan to appear on the revised plan when it is recorded at the registry.

Submission of an application for a revision to a previously approved plan is not an opportunity for the review authority to "open the book" on the whole subdivision. The review authority has the legal authority to consider only the proposed revisions.

ARTICLE 9 - INSPECTIONS AND ENFORCEMENT

9.1 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 in writing of the time when (s)he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal 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.

2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required

Inspections of required improvements and enforcement of violations may be the weakest link in the chain of development review and construction. The review authority may adopt and administer the strictest or most concise standards, but if no one is making sure that the plans are built as approved, it may be all for naught. This article spells out recommended procedures for making sure that subdivisions are constructed in accordance with the plans which have been approved.

The municipal staff person who has been assigned the responsibility to coordinate the inspections for a project should be contacted. If this person is not the code enforcement officer (town manager, public works director, town planner), this individual should be mentioned here rather than the code enforcement officer. This section should not be interpreted to imply that it is the code enforcement officer who is responsible for making the inspections, only that the CEO is the contact person or inspections coordinator. The improvements which should be inspected on a regular basis during the construction process include the road construction, installation of sewer and water pipes, storm water management structures and facilities, and erosion and sedimentation control measures.

It is important that the review authority, in cooperation with the municipal officers, code enforcement officer, road commissioner, or public works director, designate an inspecting official, who should be qualified to read the plans and determine whether they are being followed. This designated inspector should be required to work with the code enforcement officer, who may or may not attend inspections. While the code enforcement officer may not be qualified to conduct these inspections, it is the only the code enforcement officer who holds enforcement authority under the regulations and state statute. This enforcement authority may not be transferred to a non-certified individual (30-A M.R.S.A., §4451).

In many of Maine's smaller towns, retaining a consulting engineering firm to conduct the inspections may yield the best result. It is recommended that inspection of the street and storm water management system be conducted by professional engineers in addition to the public works director or road commissioner. Most likely any sewer and water line installation will be inspected by personnel from the appropriate district, department or company. Depending in which county the municipality is located, assistance from the county soil and water conservation district may be available for the inspection of storm water management and erosion and sedimentation control measures. If the soil and water conservation district is available and is to be utilized by the municipality, they should be properly referenced in this section.

Section 9.1.A.2 provides the funds to reimburse the municipality for the costs of the inspections. Similar to the recommendations regarding review fees, this section sets up a procedure to assure that funds are available to pay the full costs of inspection, yet does not charge every subdivider for the costs of a particularly difficult or complex development

Commentary

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, the inspecting official shall so report in writing to the municipal officers, Board, and the subdivider and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.
- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of 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

project, by providing that funds not used in the inspection process are returned.

The inspector needs to make periodic inspections, and upon finding any potential problems, needs to notify the appropriate municipal officials (inspections coordinator, code enforcement officer, and the reviewing authority). Written notification should be sent to the subdivider and builder by the code enforcement officer including a description of the problems or noncompliance found, the provisions of the regulations or plan approval violated, the steps which must be taken to correct them, and a time frame for taking corrective action. If a written request to take corrective action does not produce the necessary results, the municipality has various legal procedures available to it to enforce the terms of the approval. For a detailed description of enforcement procedures, interested readers are directed to the training materials published by the State Planning Office as part of its Code Enforcement Officer Certification Program.

Once construction has commenced, there will be times that minor changes such as the vertical alignment of a street or the details of a storm water management structure, are necessary due to site conditions which were not apparent during the planning of the subdivision. The *Model* in Section 9.1.C, authorizes the inspector to approve such minor changes within certain limits without the necessity of bringing the revisions before the review authority. The inspector may not authorize any change in a lot line depicted on the plan. To avoid potential controversy in the future regarding compliance with the approved plans, the inspector's approval must be in writing, and revised plans must be filed with the review authority.

by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans in accordance with Article 8.

- 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 and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.

- F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in

Construction of roads and other major earth moving activity typically ceases in the late fall as the ground begins to freeze. This is the time to make sure that proper erosion and sedimentation control has been put in place to take the site through the winter and the early spring snow melt and run off. If the municipality has made adequate provision for regular inspections of erosion and sedimentation control measures, this paragraph may not be necessary. However, most municipalities have not made adequate provisions, and therefore Section 9.1.D has been included in the *Model*. Inclusion of Section 9.1.D should help ensure that erosion and sedimentation control measures are inspected at least at this critical juncture, if not on a regular basis during the construction project.

The date referenced in the second sentence of Section 9.1.D may need to be changed depending upon location within the State. Late September is generally the last that fall planting of permanent seeding is recommended in southern Maine. The cut-off date varies from county to county and is referenced in the Best Management Practices Manual. Check with your county Soil and Water Conservation District for advice on the proper timing. If the site is not stable by the end of September additional effort and expense will be necessary to provide the necessary temporary seeding and erosion control to carry the site through the winter.

Title 30-A M.R.S.A., §4406, sub-§2 requires that at least one permanent marker be set at one lot corner of a lot prior to its sale. The *Model* requires that all lot corners have suitable monumentation. This section ensures that the monumentation shown on the plan is installed after approval.

The municipality must be assured that the street(s) has been constructed properly prior to considering acceptance as public ways. If your municipality has a council form of government, the first sentence should be changed accordingly. If there are sewer or water lines in the right-of-way, or if there is underground electric, telephone, or cable television, the municipality should be assured by the proper authority that the underground installation is satisfactory prior to accepting a proposed public way. If insufficiencies are discovered after acceptance by the municipality, it may be up to the municipality, rather than the subdivider or contractor, to correct the deficiencies.

writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

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

9.2 Violations and Enforcement.

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with these regulations.
- B. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- E. Development of a subdivision without Board

Until such time as the municipality accepts a proposed public way or until a lot owners association is active, the subdivider is responsible for the maintenance of streets. Maine law does not allow a municipality to maintain or plow private roads.

The prohibitions in paragraphs A through E are taken from the statute (Title 30-A M.R.S.A., §4406, sub-§1).

Commentary

approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.

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

This provision was included in the *Model* to ensure that residents of a subdivision will have properly constructed streets prior to their purchase or occupancy of a lot in the subdivision.

Title 30-A M.R.S.A., §4452 in part provides for a minimum fine of \$100, a maximum fine of \$2,500, a requirement for the judge to consider the economic gain from the violation in setting the fine, higher fines if there are past convictions in the past two years, and the award of attorney's fees and court costs to the municipality if it is the prevailing party.

ARTICLE 10 - PERFORMANCE & DESIGN STANDARDS

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Article 1, section 2. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design standards and make findings that each has been met prior to the approval of a final plan. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

10.1 Basic Subdivision Layout

A. Blocks.

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

B. Lots.

- 1. Wherever possible, side lot lines shall be perpendicular to the street.
- 2. 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

This provision is most appropriate in developing areas where it is desirable to promote pedestrian access, or where the easement may be necessary for sewer, water or electric utilities. In most rural areas, inclusion of this provision may make little sense.

This is simply an idea to provide for more usable regularly shaped lots.

The statute (in Section 4406) prohibits selling a lot other than as shown on the approved plan. Therefore if any lot is subsequently split, regardless of the amount of time that passes, a revised plan must be approved by the review authority. If lots are more than twice the size required by zoning, they can be laid out to be divided later, by providing more than twice the required frontage or lot width.

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.

3. If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines), tidal water, or road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
4. The ratio of lot length to width, outside of the shoreland zone, 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. 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.
5. 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

Lots in subdivisions should be compact and usable. This provision requires that all land necessary to meet the minimum lot size requirements be all on one side of any potential physical barriers to use as a whole.

This is another provision to encourage a more compact design, providing a lot which is more usable to the purchaser. The statute prohibits lots with shore frontage from having a depth to shore frontage ratio of five to one or more. If a review authority does not wish to incorporate the suggested three to one ratio into its regulations, it should, at the least include a reference to the statutory requirement regarding a five to one ratio for shore-front lots.

With the advent of the state's Enhanced 911 emergency dispatch telephone system, many towns have street naming and numbering ordinances. This section should be coordinated with such an ordinance if one has been enacted.

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 E-911 Addressing Officer and the comments shall be considered by the Board.

C. Utilities.

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

D. Monuments.

1. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
2. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
3. Stone or concrete monuments shall be a minimum of four inches square at the top and three feet in length, and set in the ground at final grade level. After they are set, drill hole 1/2 inch deep shall locate the point or points

Prior to including this section in the local regulations, the review authority should look at the comprehensive plan for some guidance. Underground electric, telephone and cable television transmission wires can promote aesthetics and increase traffic safety. However underground power is more expensive to install. For this reason, the *Model* suggests that in subdivisions with lots or units reserved for affordable housing, that the review authority be authorized to waive the requirement for underground power if it can be shown the extra costs are too much. The *Model* only requires underground power in the growth area or where lot frontage is fairly small, to avoid the expense in subdivisions with wide frontages.

Note that this section requires the installation of underground utilities prior to paving in order to avoid cutting fresh pavement. Ideally the utilities should be installed prior to the aggregate base course of gravel. This will provide a better road base and save the contractor time and money.

Prior to the sale of any lot in a subdivision, the statute (in Section 4406) requires that at least one corner of the lot be marked with monumentation. The *Model* suggests that all corners of all lots, as well as points of curvature of streets be marked with monuments.

The *Model* suggests that stone or concrete monuments be used at the corners of the boundaries of the subdivision and at certain points along any streets. Stone or concrete monuments are suggested because of their permanence and they are easier to find than a pin.

If a parcel was previously surveyed or has existing monumentation, that monumentation may not be disturbed. In that case, the review authority could waive the requirement for stone or concrete monumentation on the basis of the existing monumentation.

described above.

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

10.2 Sufficient Water.

A. Water Supply.

1. Any subdivision within the area designated in the comprehensive plan for future public water supply service shall make provisions for connection to the public system. A proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary in order to facilitate connection. When public water supply service will not be available at the time of construction of the subdivision, a "capped system" shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.
2. When a subdivision is to be served by a public water system, the complete

Suitable monumentation includes iron pins or drill holes in ledge or boulders.

The statutory criterion is that the proposed subdivision have sufficient water available for the reasonably foreseeable needs of the subdivision. This means an adequate supply of good quality water.

In municipalities with existing or planned future public water supply systems, the comprehensive plan should indicate the areas to be served by the system. This provision in the *Model* serves to implement the comprehensive plan policy regarding the service area for public water.

Some literature recommends that any subdivision within 1,000 feet of an existing water supply line be required to connect to the system. If the water district or company has plans for a line extension in the future, but the system is not in place for a particular subdivision proposal, the *Model* recommends the installation of a "capped system" of pipes in the subdivision, which is connected to the public system after the public system is extended.

The name of the appropriate water district or company should be included in these provisions.

If a community has neither an existing or planned public water system such references should be deleted.

The issue of who pays for the additions to the water system may vary from water district to

Commentary

supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the fire chief. Fire hydrants connected to a public water supply system shall be located no further than 500 feet from any building.

3. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or a private community water system.
 - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
 - (1) Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.

water district and is controlled to a certain extent by the Maine Public Utilities Commission. The *Model* suggests that the costs of the system within the subdivision itself be borne by the applicant. Perhaps some cost sharing of extensions of the system between the existing mains and the subdivision is equitable if that extension will be available for others to use. In subdivisions which will have reserved affordable housing, municipal financing of the water or other utilities is one way to lower development costs. The issue of who pays for improvements to the water system is largely up to the rules of the district or company as approved by the Public Utilities Commission. Prior to adoption of specific language in a community's subdivision regulations, the review authority should contact the water district or company to develop appropriate language. The servicing district or company should review and approve the system extension design to make sure it meets their standards. The fire chief should review the placement of fire hydrants. The *Model* does not provide detailed design standards for water systems or hydrant placement, leaving those types of details to the individual water districts.

A maximum distance of 500 feet between hydrant and building is typically recommended, based on the length and manageability of hose. Check with the fire chief prior to adoption of this requirement.

Similar to the requirement in subsection 1 to connect to the system when the proposed subdivision is within the area planned for service, this provision implements the policies of the comprehensive plan by prohibiting extensions of the public system beyond the area designated in the plan. If a community has neither an existing or planned public water supply system, this paragraph should be deleted.

Typically, the casing for dug wells does not provide as good protection against contamination from surface water runoff as does drilled wells. The chances of surface contamination is increased in higher density developments; therefore the *Model* suggests that dug wells be prohibited when lot sizes are one acre or less.

Commentary

- (2) Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.
- b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
- c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
- d. In areas where the comprehensive plan has identified the need for additional water storage capacity for fire fighting purposes, the applicant shall provide adequate water storage facilities.
 - (1) Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief.
 - (2) A minimum storage capacity of

This provision has been included to prevent contamination of wells from road salt.

The Maine Subsurface Wastewater Disposal Rules require a minimum separation of 100 feet between wells and disposal areas. Until recently the installation of private drinking water wells in Maine was unregulated. In January 1994, the Department of Human Services adopted rules for well drillers and pump installers. These rules also include a 100 foot separation between waste water disposal areas and water wells for single family dwellings. In certain soils, coarse grained sands and gravels and shallow to bedrock soils, some ground water experts recommend larger separations. In reviewing a plan, the review authority should make sure that the required separation is met from all nearby disposal areas, not just ones on the same lot as the well.

Any water supply system serving fifteen connections or 25 people or more is a "public water supply system." It must be licensed by the Department of Human Services and comes under the jurisdiction of the Rules Relating to Drinking Water. Department of Human Services considers a central system in a subdivision serving nine or more dwelling units as serving 25 or more people (three per unit).

The "reasonably foreseeable needs" of the subdivision include fire protection. Adequate fire protection in areas not served by public water includes available storage facilities from which to pump. **The comprehensive plan should indicate the areas of the municipality in which adequate facilities exist and those in which additional facilities are needed.** The *Model* requires subdivisions to provide some type of storage when located within an area of the town with an identified deficiency. Ponds and dry hydrants are typically the preferred method. Ponds provide the opportunity for a multi-use facility: water storage for fire protection, storm water detention, phosphorus removal to protect lake water quality, outdoor recreation for the residents of the subdivision, and occasionally wildlife or waterfowl habitat. Construction of a fire pond in or near a stream or wetland comes under the jurisdiction of the

Commentary

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.

- (3) 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. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary.
- (4) 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. A suitable accessway to the hydrant or other water source shall be constructed.
- (5) 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 that the fire chief has indicated in writing that alternate methods

Natural Resource Protection Act, requiring a permit from the Department of Environmental Protection. Some rural fire departments have recently been recommending the installation of a 10,000 gallon or larger concrete or fiberglass reservoir as an alternative to ponds. The fire chief should be consulted on the fire protection plan for all subdivisions.

There may be sites where neither installation of concrete or fiberglass reservoirs nor construction of a pond is possible due to the soils or geologic conditions. In these cases, the *Model* allows the review authority to waive the requirement for storage when the fire chief has indicated there are satisfactory alternatives. Such alternatives may include drafting water from a nearby surface water body

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.

The primary drinking water standards deal with contaminants which are health concerns, while the secondary standards are contaminants which present more of an aesthetic concern.

10.3 Erosion and Sedimentation and Impact on Water Bodies

A. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, 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. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.

D. 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.

The statutory criterion is that the proposed subdivision will not cause unreasonable soil erosion or a reduction of the land's capacity to hold water so that a dangerous or unhealthy condition results.

10.4 Sewage Disposal

A. Public System.

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

In municipalities with existing or future public sewage disposal systems, the comprehensive plan should indicate the areas which the system is planned to serve. This provision in the *Model* implements the comprehensive plan policy regarding the

system.

2. When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
3. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
4. The sewer district shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer district or department.

B. Private Systems.

1. When a proposed subdivision is not within the area designated for public sewage disposal service in the

service area for public sewage disposal.

Some literature recommends that a subdivision within 1,000 feet of an existing sewer line be required to connect to the system. Some local sanitary districts or municipalities have enacted their own rules which require a development to connect when it is within a certain distance of an existing line. The subdivision standards should be coordinated with the regulations of the local sanitary district or sewer department.

If the sewer district or department has plans for line extension in the future, but the system is not in place for a particular subdivision proposal, an option is the installation of a "capped system" of pipes in the subdivision, which is connected to the public system after the public system is extended. The name of the appropriate sewer district or department should be included in these provisions. If a community has neither an existing or planned public sewage system these sections should be deleted.

The issue of who pays for the additions to the sewer system may vary from community to community. The *Model* suggests that the costs of the system within the subdivision itself be borne by the applicant. Perhaps some cost sharing for extensions of the system between the existing collectors or interceptors and the subdivision is equitable if that extension will be available for others to use. The standards in the subdivision regulations should be coordinated with the policies of the sewer district or department.

The statutory criteria are that the proposed subdivision will provide for adequate sewage disposal and will not cause an unreasonable burden on municipal services if they are to be utilized. In order to provide adequate sewage disposal, the system must be able to handle the sewage from the subdivision at the time the subdivision is to be occupied. Therefore improvements planned in the future should be considered in determining whether adequate sewage disposal will be available.

The servicing district or department should review and approve the system extension design to make sure it meets their standards. The *Model* does not provide detailed design standards for sewerage systems. These types of details are best left to the individual sewer districts or departments.

This provision implements the policies of the comprehensive plan by prohibiting extensions of the public system beyond the area designated in the plan. If a

Commentary

comprehensive plan, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge, licensed by the Department of Environmental Protection.

2. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
 - a. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to 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 in the deed 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

community has neither an existing nor planned public sewerage system, this section should be deleted.

In brief, effective May 1995, the Disposal Rules require a site to be a minimum of 100 feet from a perennial water body or well, to be on a slope of 20% or less, and to have a depth to "limiting factor" of 15 inches or more in the shoreland zone and 12 inches or more elsewhere, among other requirements. "Limiting factor" is defined as the seasonal high water table, bedrock, or a restrictive layer in the soil.

Each application for subdivision approval should be accompanied by a site evaluation which indicates the texture and parent material of the soil, and depth to limiting factor found in the test pit. This information should appear on a form printed by the Division of Health Engineering known as an HHE-200. The box on the following page provides additional explanation to assist in understanding the HHE-200 form.

A typical disposal area for a three bedroom single family home will require approximately 1,000 square feet of area. The test pit only looks at one backhoe excavation. Occasionally site conditions can change rather abruptly, particularly with shallow to bedrock soils. The individual conducting the site evaluations, either a Licensed Site Evaluator or Certified Soil Scientist, should certify in writing that a disposal area may be installed satisfactorily at the location of each test pit shown to meet the Disposal Rules.

As mentioned above, the Disposal Rules currently require a depth to the limiting factor of no less than 12 inches (and 15 inches in the shoreland zone). As the depth to limiting factor decreases, the chances of a system malfunctioning may increase. The *Model* suggests that when the depth to limiting factor is less than 24 inches, a second passing site evaluation be submitted, and an area around that test pit be shown on the plan as an area reserved for a replacement disposal area, with building or driveways prohibited. This should be accomplished both by notes on the plan and by restrictions in the deed.

The Disposal Rules contain a procedure by which an individual may receive permission from the Division of Health Engineering to install a system which does not meet the requirements

Subsurface Wastewater Disposal Rules.

10.5 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.

10.6 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. Except in areas of the municipality designated by the comprehensive plan

of the Rules. Effective May 1995, revisions to the Disposal Rules provide for the Local Plumbing Inspector to grant approval for new system variances. For sites which do not meet the minimum soil conditions, a point system has been established. For lots within a proposed subdivision a variance request must obtain a minimum of 75 points out of 100 to be considered. The *Model* suggests prohibiting new system variances within subdivisions.

There may be some conflict between the subdivision statute and other provisions of state law. The criterion in the subdivision statute is that a proposed subdivision not cause an unreasonable burden on the municipality's ability to dispose of solid waste. However Title 38 M.R.S.A., §1305, sub-§1 *requires* a municipality to provide for solid waste disposal for the waste generated within the municipality. Generating more solid waste than municipal facilities are designed to handle or can reasonably handle would clearly be an unreasonable burden. The *Model* suggests that to cause a local facility to fall out of compliance with its operating license, or to cause a municipality to exceed its contract with a private or non-municipal facility would also be an unreasonable burden.

The *Model* suggests that in these cases the applicant find another facility which will accept the waste. Whereas the municipality has a responsibility to provide arrangements for the disposal of solid waste generated within the community, the applicant should not be required to make alternate arrangements for a period of time exceeding that which is needed for the municipality to plan, finance and construct the improvements necessary to allow it to handle the waste. The *Model* suggests a limit of five years.

The criterion in the statute is that 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. The *Model* has divided the performance standards for this criterion into five sections.

This section requires the plan to indicate an area on each lot beyond which clearing is not permitted. The *Model* does not suggest any particular maximum area or percentage of a lot as standards or as a design guideline, preferring to leave that to the judgment of the review authority and the applicant on a case by case basis. Even without a percentage or area limit as a standard, including this provision in the municipal regulations may cause both the applicant and the review authority to think about the issue. When a subdivision is located within the direct watershed of a great pond, one of the most effective ways to control phosphorus export is to limit the conversion of existing woodland to lawns. The stormwater management plan may require wooded buffers as a tool to regulate stormwater runoff.

The comprehensive planning statute, the guidelines from the State Planning Office,

Commentary

as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads. Outside of designated growth areas, a subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.

3. The Board may require the application to include a landscape plan that will show the preservation of any existing large specimen trees, the replacement of trees and vegetation, and graded contours.
4. Unless located in areas designated as a growth area in the comprehensive plan, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of buildings when viewed from existing public streets. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a

and most municipal comprehensive plans discuss the value of protecting the “rural character” of the state and municipalities. The authors’ conversations with municipal planning officials and review of several public opinion surveys have led to the conclusion that one of the primary features of rural character is not necessarily the lack of development as much as the perception of the lack of development. Designing subdivisions to minimize the visual impacts as viewed from public roads may contribute greatly to maintenance of rural character in a municipality.

Depending on the site characteristics, this performance standard can be met by a variety of design methods. For proposed subdivisions which are wooded, the retention of a wooded buffer strip along the road in which the removal of trees is prohibited may serve the purpose of protecting the rural character. In proposed subdivisions that have both open field and woods, locating the buildings in the woods will accomplish the goal. The designer of the subdivision may be able to take advantage of topography and “hide” the development behind a hill. Another issue to keep in mind, in the mountainous portions of the state, is the impact of tree removal and building construction along ridge lines. See subsection 5 below for design guidelines for meeting this standard

The retention of healthy large trees within a subdivision can greatly improve the visual quality of the development and the living conditions for the occupants.

Much of the New England townscape’s character resulted from the foresight of someone several generations ago to plant street trees. Street trees serve to provide shade, frame views along a street, and in themselves contribute to the beauty of a subdivision. The *Model* has suggested a mix of tall shade trees and medium-height flowering trees to avoid potential

Commentary

mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

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

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

1. If any portion of the subdivision is located within an area designated by the comprehensive plan as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or

monotony and avoid single species plantings which intensified the catastrophe of Dutch elm disease. Street trees are an investment in the future of a neighborhood, acting to improve the visual character of the streetscape, provide shade to adjoining lawns, lower the street temperature, and provide habitat for “street wildlife” in suburban and urban settings.

The ridges of mountains or hilltops in many communities serve as major visual resources, which comprehensive plans may discuss preserving. Restriction of building activity or forest clearing from these ridge lines can assist in preserving this aesthetic resource. **The comprehensive plan should be consulted for the appropriateness of a guideline such as this.** If there are no policies to support such a requirement, this section should be deleted.

The comprehensive planning statute encourages municipalities to incorporate open space planning and greenbelts into their comprehensive plans. This provision of the Model implements this policy by requiring areas designated as future open space to be reserved as such in a subdivision plan. Any time the local subdivision standards or land use ordinance require land which is otherwise buildable to be designated as open space, the municipality is strongly encouraged to consider appropriate zoning provisions which either allow the area within the open space to be counted for purposes of determining the number of lots or dwelling units in the subdivision or establishing a compensatory system such as the transfer of development rights, to soften possible land owner opposition to such a measure, provide a stronger degree of fairness to its growth management programs, and avoid possible claims of taking private property without just compensation. Recent U.S. Supreme Court cases have stressed the importance of allowing a property owner use of their land and the need for a rational relationship between the impacts of the development and the restrictions placed upon that development. **If a municipality’s comprehensive plan does not have an open space component, this section should be deleted.**

There are many reasons a site could be designated a unique natural area ranging from the habitat for a rare plant or animal, to rare geologic formations. **Comprehensive plans should contain an inventory of the unique natural areas within the municipality and propose strategies for their preservation. Inclusion of any unique natural areas within the open space of a proposed subdivision, and a proper management plan to protect the site’s value should implement those comprehensive plan policies.**

The Maine Historic Preservation Commission maintains a register of known historic and

Commentary

prehistoric importance by the comprehensive plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the comprehensive plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics, but shall constitute no less than 5% of the area of the subdivision. In determining the need for recreational open space the Board shall also consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; and the type of development. Sites selected primarily for scenic or passive recreation purposes shall have such

prehistoric sites. **These also should be in the inventory of the municipal comprehensive plan. The comprehensive plan should designate which are important enough to be worthy of protection. The subdivision plan should provide for a level of protection called for in the comprehensive plan.**

The need for outdoor recreation space and facilities should be addressed in the comprehensive plan. The plan should contain an analysis of the needs for different types of facilities in the municipality and perhaps in various neighborhoods or localities within the municipality.

The amount of land needed for outdoor recreation within a subdivision will vary from situation to situation. Most likely the biggest determinant will be the lot sizes within the subdivision. Lots of 10,000 square feet or smaller provide little opportunity for play area on the lot. Lots of two to three acres on the other hand provide enough undeveloped open area on each lot as to generate little demand for other facilities. A subdivision which is immediately adjacent to a neighborhood park will require less land to be reserved for open space than a lot which is two miles from the nearest public facility. A subdivision with one and two bedroom apartments will generate a different demand for outdoor recreation than one with three bedroom single family houses.

access as the Board may deem suitable and no less than 25 feet of road frontage.

5. 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.
6. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
7. Reserved open space land may be dedicated to the municipality.

8. Where land within the subdivision is not suitable or is insufficient in amount, and when suggested by the comprehensive plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open

The issue of who should own open space varies from municipality to municipality. **The benefits of public ownership are that the public may use the land or facility, rather than solely the residents of a subdivision, and that may meet a need identified in the comprehensive plan.** The drawback, of course, is the cost of upkeep and maintenance. **The comprehensive plan should contain policies as to which types of open space land and facilities the town would like to have dedicated to the municipality and which should remain in private hands to be managed by a lot owners' association or other private entity.** Any requirement for an applicant to dedicate land to the municipality needs to be carefully accounted for in the municipality's comprehensive plan and there must be a direct link between the impacts of the subdivision and the purposes of the land dedication. The U.S. Supreme Court, in several recent cases, has emphasized the need for planning to precede regulation and for the correlation between the impacts and the dedication.

There may be cases where the municipality will prefer to see a donation of cash in lieu of the reservation of land. These cases include where a municipality has a clear capital improvements program which calls for the purchase or improvement of specific open space or outdoor recreation facilities. Cash contributions will provide an opportunity to obtain these without as heavy a burden on the property tax. It may be more beneficial for the community

Commentary

space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

C. Protection 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 Beginning with Habitat Project or the comprehensive plan as:
 - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
 - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
 - d. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or
2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or

to achieve the goals of the capital improvement program than to obtain scattered pieces of open space where subdivision activity happens to be taking place. **If a community has developed a greenbelt plan, subdivision activity away from the designated open space can better contribute to the municipality with a cash donation, than the donation of land that has not been designated for open space.**

Appropriate zoning ordinance and subdivision regulation provisions allowing clustering (see section 10.13) should be enacted to avoid the “takings” issue. **The comprehensive plan should indicate which important wildlife habitats are to be protected.** The Department of Inland Fisheries and Wildlife has mapped “essential habitat” for rare and endangered species and “significant habitat” under the Natural Resources Protection Act in the Beginning with Habitat Project. See:

<http://www.beginningwithhabitat.org>, or contact your Regional Council.

Not only does the habitat itself need to be protected but activities and human disturbance within the surrounding areas need to be controlled to preserve the habitat's value. The guidelines recommend the review of a subdivision plan by a wildlife biologist to ensure sensitive area protection. The Department of Inland Fisheries and Wildlife is in the process of adopting standards for the protection of habitat. Until these practices are adopted, the Department of Inland Fisheries and Wildlife recommends that protection measures for proposed subdivisions in areas designated as significant wildlife habitat in comprehensive plans be proscribed on a case-by-case basis. Review authorities should contact Department of Inland Fisheries and Wildlife biologists or regional council staff to find out if new management recommendations are available.

travel corridor;

3. Or other important habitat areas identified in the comprehensive plan or in the Department of Inland Fisheries and Wildlife Beginning with Habitat Project;

the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. There shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge or normal high-water mark of such habitat areas. The applicant must consult with the Maine Department of Inland Fisheries and Wildlife, and provide their written comments to the Board. The Board may require a report to be submitted, prepared by a wildlife biologist, selected or approved by the Board, with demonstrated experience with the wildlife resource being impacted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe any additional appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

D. Protection of Important Shoreland Areas.

1. 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.
2. Within areas subject to the state

A review authority can determine whether a biologist hired by an applicant is qualified to conduct a site assessment by asking if the wildlife biologist certified by the Wildlife Society (the professional association of wildlife biologists) and if the biologist has previous experience assessing the particular resource(s) of concern in this case. The biologist should submit copies of his or her credentials along with the report.

Access to the shoreline of waterbodies has been made a priority by the Legislature. The comprehensive planning law mentions this priority, and the subdivision statute has even included visual access to the shore in the criteria. These design guidelines are based on the minimum shoreland zoning guidelines adopted by the Board of Environmental Protection. Therefore for subdivisions along a river, great pond, tidal water body or freshwater wetland larger than ten acres in size, or along a "stream" as defined for purposes of shoreland zoning, these restrictions should be in place anyway. A municipality may wish to extend

Commentary

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

- a. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten year period.
- b. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown.
- c. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to a great pond, or a tributary to a great pond, the width of the foot path shall be limited to six feet.
- d. In order to protect water quality and wildlife habitat adjacent to great ponds, and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.

these restrictions to brooks which do not otherwise need to be covered by shoreland zoning.

Requiring their inclusion as deed restrictions will help assure compliance, as perspective lot purchasers should become more aware of them, than if they are simply in the municipality's zoning ordinance.

e. Pruning of tree branches, on the bottom third of the tree is permitted.

3. Within areas subject to the state mandated shoreland zone, beyond the buffer strip designated above, and out to 250 feet from the normal high water line of a water body or upland edge of a wetland, cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed.

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

1. All open space common land, facilities and property shall be owned by:
 - a. The owners of the lots or dwelling units by means of a lot owners' association;
 - b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
 - c. The municipality.
2. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may

The owner, developer or applicant should not continue to own the open space or other land or facilities in the subdivision. Land which is reserved as open space is usually best dedicated for public ownership. Land which is reserved as active recreation or other neighborhood facilities should be owned by the lot owners' association. Subdivision streets which are not to be dedicated as public ways, common septic systems or wells, and other facilities should also be owned by the lot owners' association. A review authority may wish to consider a requirement that the developer provide an initial capital fund for the association to cover replacement costs of major facilities.

Future development of the common land or open space should be prohibited, especially if the area has been used in calculating the density of the subdivision. The best way to accomplish this is through a combination of notes on the plan and conservation easements to the municipality.

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.

3. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
 - a. It shall not be used for future building lots; and
 - b. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
4. The final plan application shall include the following:
 - a. 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.
 - b. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
 - c. 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.
5. In combination, the documents

Prospective purchasers of lots in the subdivision should be aware of the possibility of public ownership of the open space.

The proper establishment of the lot owners' association is very important to the success of any development that is going to have commonly owned property or facilities. The covenants and by-laws which establish the association must make its responsibilities, duties, and authority very clear. The review authority should read through them carefully and make sure that points covered in these sections are properly covered. Membership in the association should be mandatory for every lot or unit owner in the development. The association must be given the authority to collect assessments to finance its operations and replacement costs for major capital facilities, and place liens on the property of those who do not pay. Sample by-laws or covenants are available from regional councils. In a subdivision in which the open space and roads are to be dedicated to the municipality, the establishment of an association may not be necessary.

referenced in paragraph D above shall provide for the following.

- a. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
- b. 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.
- c. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
- d. 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.

10.7 Conformance with Zoning Ordinance and Other Land Use Ordinances.

All lots, other than those found within cluster developments approved pursuant to section 10.13, shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance and other land use

ordinances.

10.8 Financial and Technical Capacity.

A. Financial Capacity.

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

B. Technical Ability.

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

10.9 Impact on Ground Water Quality or Quantity.

A. Ground Water Quality.

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - a. A map showing the basic soils

- types.
- b. The depth to the water table at representative points throughout the subdivision.
 - c. Drainage conditions throughout the subdivision.
 - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
 - f. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
 3. No subdivision shall increase any contaminant concentration in the ground water to more than 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.

4. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
6. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.

B. Ground Water Quantity.

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

10.10 Floodplain Management.

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

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

10.11 Identification of Freshwater Wetlands, Rivers, Streams or Brooks.

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the

proposed subdivision shall be identified.

10.12 Stormwater Management

- A. For subdivisions that require a DEP review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Stormwater Regulations.
- B. For subdivisions that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Regulations.
- C. For subdivisions outside of the watershed of a Great Pond, that neither require a SLDA permit, nor a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which incorporates Low Impact Development techniques on each individual lot, as described in Appendix __ (*to be prepared by Horsley-Witten under contract with the State of Maine*).
- D. For subdivisions within the watershed of a Great Pond, containing:
 - 1. five or more lots or dwelling units created within any five-year period; or
 - 2. any combination of 800 linear feet of new or upgraded driveways and/or streets;a stormwater management plan shall be submitted that meets the phosphorus

Because the Site Location of Development Act requires a review of all streets and land disturbance within the subdivision, the model recommends that the Towns rely on the stormwater management plan reviewed by the State. The local ordinance need not lay out duplicative or conflicting stormwater management plan criteria.

This situation applies to all subdivisions with more than 1 acre of land disturbance (or more than 20,000 s.f. of land disturbance in a lake watershed).

At the time of the publication of this edition of the *Model*, the Low Impact Development manual for individual lots is not yet available.

Previous editions of the model contained extensive standards for phosphorus controls. With the advent of the Chapter 500 Stormwater Rules and the new edition of the Phosphorus Design Manual from DEP this edition simply requires that if a subdivision is in the watershed of a Great Pond, phosphorus control BMP's shall be followed. The Board's consulting engineer should review all stormwater management plans submitted for compliance with the BMP's.

allocation across the entire subdivision in accordance with the methodology described in the DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006.

- E. The Planning Board may require a hydrologic analysis for any site in areas with a history of flooding or in areas with a potential for future flooding, associated with cumulative impacts of development. This hydrologic analysis would be in the form of a “Downstream Analysis” under conditions of the 10-year, 24-hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm, as described below:

Downstream Analysis Methodology

The criteria used for the downstream analysis is referred to as the “10% rule.” Under the 10% rule, a hydrologic and hydraulic analysis for the 10-year, 24 hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm is extended downstream to the point where the site represents 10% of the total drainage area. For example, a 10-acre site would be analyzed to the point downstream with a drainage area of 100 acres. This analysis should compute flow rates and velocities downstream to the location of the 10% rule for present conditions and proposed conditions. If the flow rates and velocities increase by more than 5% and/or if any existing downstream structures are

In previous editions of the model, all projects were required to retain stormwater from the 10 and 25 year storms. However, the new philosophy embodied in the Chapter 500 Stormwater Rules in effect in 2006, only requires such stormwater retention in areas with a history of flooding. Given the increasing complexity of stormwater management systems being installed to meet Chapter 500 rules, Planning Boards should be prepared to collect funds from applicants and routinely work with engineering consultants to review stormwater components of applications.

impacted, the designer should redesign and incorporate detention facilities.

10.13 Cluster Developments

A. Purpose, Mandate for Clustering.

1. The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances to relieve hardship, and action of the Zoning Board of Appeals shall not be required.
2. All subdivisions where __ lots or units or more are created within any five year period, and the project is located in the ___ or ___ zoning districts, shall be designed as a cluster developments, according to the following standards. Subdivisions created in other districts, or containing __ lots or units or less, may be designed either utilizing the

Ideally the provisions of this section should be included in a zoning ordinance. The recommendations of this section are modified from Southern Maine Regional Planning Commission’s model zoning provisions for cluster developments. This section should not be included in subdivision regulations unless the municipality has a zoning ordinance that permits cluster development but fails to provide adequate performance standards or design guidelines.

This section should require all projects over a certain size and/or in certain areas to use the cluster development technique. In rural communities, it may be appropriate to require clustering for all projects with 5 or more units or lots, in any district.

cluster development approach, or by the traditional subdivision method with little or no common open space.

B. Basic Standards for Cluster Developments.

1. Cluster developments shall meet all requirements of these regulations.
2. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.
3. The Planning Board shall allow lots within cluster developments to be reduced in lot area, street frontage and lot width below the minimum normally required by this ordinance in return for provision of common open space, as long as the maximum number of dwelling units is not exceeded, according to the calculations in section ___ below.
4. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage as determined in section 5 shall be divided by the minimum lot size in the district, as required by the zoning ordinance. No building in the cluster development shall be sited on slopes steeper than 25%, within 100 feet of any water body or wetland, or on soil

The requirement that the plan show all buildings etc. may not be necessary in cluster developments with a larger lot size. A municipality may wish to include this provision only for subdivisions with lot sizes under one acre or so. If the plan is not going to show the building location, a "building envelope," or limit of clearing in wooded sites, should be shown.

The issue of calculating the appropriate number of lots or dwelling units in cluster developments should really be taken care of in the zoning ordinance. This section is included in the *Model* as an example of what can be done. **If the zoning ordinance does not make any reference to net acreage calculations, the subdivision regulations should not as well.**

The issue of net acreage and formulae for determining it will vary from community to community. On one hand, some suggest that an applicant should not be able to place more units in cluster development than on a conventional subdivision, and therefore "undevelopable land" should not be counted. On the other hand, others maintain that

Commentary

- classified as being very poorly drained.
5. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
 - a. 15% of the area of the lot to account for roads and parking.
 - b. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
 - c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 1. slopes greater than 20%.
 2. wetland soils.
 3. Portions of the lot subject to rights of way.
 4. Portions of the lot located in the resource protection zone.
 5. Portions of the lot covered by surface waters.
 6. Portions of the lot utilized for storm water management facilities.
 6. Unless a community sewage collection and treatment system is provided, no lot or area of occupation, in the case of a condominium, shall be smaller in area than 20,000 square feet.
 7. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the

whereas clustering is generally beneficial to the community, due to the provision of open space and shorter streets and utilities, that there should not be a penalty for clustering, and perhaps there should even be an incentive or bonus for clustering. You may wish to consider adopting a net acreage provision such as above for all subdivisions or all lots, as some communities in southern Maine have, not just cluster developments. In addition, it may be better to define the term "net acreage" in the definition section and merely use it here in the text. This will facilitate using the same net acreage formula for other developments such as multi-family or mobile home parks and will mean Section 12.10.C.3 is not necessary. **These issues should be discussed and resolved in preparing a comprehensive plan.**

State law prohibits lots smaller than 20,000 square feet in area from having individual subsurface waste water disposal systems. Some towns may choose to set a particular minimum lot size or allowable percentage reduction from the lot size normally required.

If your community is going to provide a bonus for cluster subdivisions, the first sentence of this section should be modified. Some communities may not place a priority on "usable open space," and may therefore wish to provide some flexibility in the regulations or delete

Commentary

minimum lot area normally required by the zoning ordinance. However, at least fifty percent (50%) of the area of the entire parcel or tract shall be included as common open space. Common open space shall not include road rights of way, streets, drives, or parking. No more than fifty percent (50%) of the common open space shall consist of forested or open wetlands of any size.

8. Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common land.
9. The distance between buildings shall not be less than 20 feet.
10. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
11. Shore frontage for each lot or area of occupation, in the case of a condominium, shall not be reduced below the minimum normally required by the zoning ordinance.
12. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
13. The common open space shall owned and managed according to the standards of 10.6.E.
14. The subdivider shall be responsible for the maintenance of the common open

the last sentence. "Usable open space" is defined in Article 3.

Some municipalities require that each lot abut the common land. This occasionally results in poor design in order to fit the requirement. The *Model* suggests the 1,000 foot provision with the intent that every lot will be in close proximity as a reasonable goal.

For basic fire safety, ventilation, privacy and maintenance of outside walls. Any closer and you might as well have attached units. In rural areas, without central water supply and hydrants, this figure should be increased. Consult with the fire chief for a recommendation.

This provision is important to prevent strip development along an existing street with reduced frontages and the back land being "open space."

The state's Minimum Shoreland Zoning Guidelines do not allow for shore frontage reductions.

This will allow greater access to the water body by residents of the subdivision and possibly the public, and minimize the environmental impact of the subdivision on the shoreline and water quality.

space and the other common facilities, until development sufficient to support the neighborhood association has taken place. or, alternatively, the objectives of clustering have been met. Such determination shall be made The transfer of responsibility shall occur only after review and approval by the Planning Board, upon request by the neighborhood association or the developer or subdivider.

10.14 Compliance with Timber Harvesting Rules.

The Board shall ascertain that any timber harvested on the parcel being subdivided, has been harvested in compliance with rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board 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. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it

This Performance Standard is new, and was added as the 20th statutory review criterion in 2003. The legislature enacted this provision to discourage clearcutting immediately prior to subdivision development. For assistance in determining whether a particular landowner is in compliance with the program, contact the Department of Conservation, Maine Forest Service, at 287-8431.

will not provide assistance, the Board 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, M.R.S.A 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.

10.15 Traffic Conditions and Streets.

A. General Standards

The proposed subdivision shall meet the following general transportation performance standards:

1. The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets;
2. The subdivision transportation system shall have design standards that avoid traffic congestion on any street;
3. The subdivision transportation system shall provide safe and convenient circulation for vehicles, bicyclists and pedestrians on interior subdivision streets and access connections to external streets;
4. The subdivision transportation system shall have design standards that are compatible with the estimated Average Annual Daily Traffic of the street, the land uses accommodated

The *Model* requires that developers and towns develop street systems that fit the AADT of the street and the land use characteristics of the subdivision. The objective of this performance standard is to avoid the overdesigning of subdivision streets that all too often has occurred when subdivision street standards have relied on street design standards adapted from highway designs. The objective of the Model's street standards are to not only move traffic safely and efficiently, but to see that the needs of people living and working on the street are provided a quiet, safe and pleasant internal street system with minimal through traffic.

by the street, and the lot density of the street; and

5. The subdivision transportation system shall have a positive relationship to the natural setting of the proposed subdivision site.

B. General Access Standards.

All subdivision accesses connecting with external streets shall meet the following standards:

1. Accesses connecting to any state or state-aid highway shall meet the minimum access permitting requirements of the Maine Department of Transportation “Highway Driveway and Entrance Rules”;
2. Accesses that are expected to carry more than 100 passenger vehicle equivalent trips in the peak hour shall meet the minimum access permitting requirements of the Maine Department of Transportation “Rules and Regulations Pertaining to Traffic Movement Permits”.
3. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall reduce the Level of Service (LOS) of streets or intersections neighboring the

To access the Maine Department of Transportation “Highway Driveway and Entrance Rules” and the “Rules and Regulations Pertaining to Traffic Movement Permits” go to the Maine Secretary of State Website, or contact your local regional planning commission or council of governments.

The comprehensive plan should give an indication of the current and expected future levels of service of the major streets and intersections within the municipality. In addition, the plan should indicate what desired levels of service are for those streets, and perhaps other streets in the municipality. Generally, the lowest acceptable level of service is LOS D. The Maine Department of Transportation uses LOS D as the lowest acceptable level in reviewing developments for Traffic Movement Permits. However, Maine DOT recognizes that there are certain extenuating circumstances in which a Traffic Movement Permit is permissible. Those conditions have been incorporated into the *Model*. Although the Maine DOT Traffic Movement Permit is triggered when a development exceeds 99 passenger vehicle equivalent trips per peak hour, the conditions used in the permitting process are adaptable to smaller developments.

subdivision to a LOS of “E” or below, unless:

- a. the comprehensive plan has indicated that Levels of Service "E" or "F" are acceptable for that street or intersection; or
- b. the level of service of the road or intersection will be raised to D or above through transportation demand management techniques; or
- c. the applicant provides evidence that it is not possible to raise the level of service of the road or intersection to D or above by road or intersection improvements or by transportation demand management techniques, but improvements will be made or transportation demand management techniques will be used such that the proposed development will not increase delay at a signalized or unsignalized intersection, or otherwise worsen the operational condition of the road or intersection in the horizon year; or
- d. improvements cannot reasonably be made because the road or intersection is located in a central business district or because implementation of the improvements will adversely affect a historic site as defined in 06-096 CMR 375(11) (Preservation of Historic Sites)

Sections b to f are based on the LOS conditions used in the Maine DOT traffic movement permitting process.

and transportation demand management techniques will be implemented to the fullest extent practical; or

- e. The development is located in a designated growth area, in which case the applicant shall be entitled to an exception from the level of service mitigation requirements set forth under the General Standards in this Section. This exception applies even if part or all of the traffic impacts of the proposed development will occur outside the boundaries of the designated growth area. This exception does not exempt the development from meeting safety standards, and greater mitigation measures may be required than otherwise provided in this subsection if needed to address safety issues; or
- f. In the case of unsignalized intersections, if traffic with the development in place would not meet the warrant criteria for signalization or turning lanes, as set forth in the Federal Highway Administration's "Manual on Uniform Traffic Control Devices," (1988), then the municipal reviewing authority may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.

4. Accesses to non-residential

Commentary

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 study or analysis to determine the need for a left-turn storage lane shall be done.

C. General Internal Subdivision Street Standards

All internal subdivision streets shall meet the following minimum standards. In cases where the internal subdivision street standards conflict with the street ordinance of the municipality, the more stringent rule shall apply.

1. The street or street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the municipality to provide access to abutting properties or to logically extend the street system. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Public Works Director, and the restoration and expansion of the street shall be the responsibility of any

Vehicles should not have to line up on a street waiting to enter a driveway due to inadequate turning radii or insufficient stacking room within a parking lot. A left turn lane may be necessary on the existing street to avoid backups of traffic waiting for others to turn left.

This performance standard requires that subdivision street systems should be planned to have connectivity with existing, proposed or planned streets. The provision requires that street stubs should developed to allow for turn-around on temporary dead end streets. This provision provides flexibility to the Board to make a determination if minor collector or local streets do not need to have a connection with other streets. These street systems are not designed for through traffic. The Board may need to retain a consultant for direction on whether a particular road can handle additional AADT.

future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic.

2. Where necessary to safeguard against hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways, transportation demand management techniques, and traffic controls within existing public streets.

3. Street Names, Signs and Lighting.
Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be

With the advent of the 9-1-1 Enhanced emergency dispatch service, participating municipalities must develop a complete street naming and numbering program. Municipalities should have already established a formal procedure for street naming. The review authority should check with the municipal officers and reference the proper individual or committee in this section.

installed as approved by the Board.

4. During street construction, the entire right of way shall not be cleared unless clearing is necessary for utilities, drainage or other infrastructure necessities beyond the clear zone. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. 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.

10.15.1 Specific Access and Street Design Standards.

A. Access Control.

1. To the maximum extent practical, all subdivision accesses shall be constructed perpendicular to the external street providing access to the subdivision. No subdivision accesses shall intersect the external street at an angle of less than 60 degrees.

2. Where a subdivision abuts or contains

Disposal of construction debris may come under the jurisdiction of the Department of Environmental Protection. See the commentary for Section 8.2.T. The Maine Department of Transportation also has construction standards in its "Highway Driveway and Entrance Rules."

Access control at its most basic level is an attempt to regulate the number and frequency of driveways and entrances on a highway in order to conserve that highway's mobility and safety. Generally speaking, the more driveways and entrances on a roadway, the more "friction points" there are to disrupt mobility and cause safety hazards on the roadway. In 2001 Maine adopted a new access management statute (23 M.R.S.A. § 704), directing the Maine Department of Transportation (MDOT) and authorizing municipalities to issue or deny permits for proposed accesses, alterations of accesses, or changes in use of accesses. The MDOT is currently responsible for reviewing accesses on state or state-aid highways outside of designated urban compact areas. As a municipality, your town is authorized to adopt access management standards stronger than the MDOT rules for areas outside of designated urban compact areas and are encouraged to adopt access management standards for any urban compact areas existing in the municipality. For more information about access management standards and strategies, contact your local regional planning commission or council of governments. The MDOT's access management permitting criteria depend on the mobility function and history of high crash locations of state highways, and are generally more restrictive on highways serving an important regional mobility function or highways that have had a above average incidence of crashes for its roadway type. Go to the Maine Secretary of State website for the current status of MDOT's "Highway Driveway and Entrance Rules".

Arterial streets, unlike collector or local streets are designed for highway mobility. Individual lot accesses should be avoided at all costs and should be part of a shared access system

an existing or proposed arterial street, no lot may have vehicular access directly to the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.

3. 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. In cases where creating an access to a lesser traveled way is problematical, the Board may allow an access on the higher volume street if the access does not significantly detract from public safety. For accesses on higher volume streets, the Board shall consider the functional classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the public way with lesser potential for traffic, and the distance to the public way with lesser potential for traffic. In cases where the double frontage lot has frontage on two Maine Department of Transportation designated non-compact arterials, the access shall meet the permitting standards of the

with other adjacent subdivided properties.

Corner lots and other double frontage lots should have driveway access limited to the street in which the least potential for congestion and safety problems exists. Typically this will be the street with the lower traffic volume. The Model provides the Board some features to consider in making a determination if building an access to the street with lesser potential traffic is problematical.

Maine Department of Transportation
“Highway Driveway and Entrance
Rules”.

4. Lots in subdivisions with frontage on a state or state aid highway shall have shared access points to and from the highway. Normally a maximum of two accesses shall be allowed regardless of the number of lots or businesses served.
5. The subdivision access including all radii must be paved from the edge of pavement of the external street to the street right of way or the length of the design vehicle using the subdivision, whichever is greater, unless:
 - a. the external street is not paved; or
 - b. the internal subdivision street is an unpaved private street that is expected to carry an Average Daily Traffic capacity of 50 trips or less.
6. Minimum Sight Distance Standards
Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. For accesses that are expected to carry primarily passenger vehicles, the standards in the second column in Table 10.15-1 shall apply. For accesses that are estimated to carry more than 30% of

Just as individual lot accesses should be restricted, shared subdivision accesses should not exceed more than two access points on to a highway. Even for extremely large developments, two accesses are generally adequate for any size subdivision.

A paved access provides a safe and stable entry and exiting surface for vehicles moving in and out of a subdivision. Pavements are not required in areas where the external road is already not paved, or in cases where low volume gravel roads connect with external streets.

The standards in Table 10.15-1 are applicable to all subdivision accesses connecting to external streets. These guidelines are based on the Maine DOT’s “Highway Driveway and Entrance Rules”. Special sight distance lengths are provided for accesses carrying a high number of truck traffic, or for accesses entering on to a Maine DOT designated mobility or retrograde arterial. For a current listing of mobility or retrograde arterials, contact the Maine DOT Division office in your location, or your local regional planning commission or council of governments.

Adequate sight distance is necessary in order to make sure drivers exiting the subdivision can see oncoming vehicles and have adequate time to accelerate to enter traffic without slowing the traffic flow. The corollary is that adequate sight distances are necessary to allow oncoming traffic to stop in time to avoid hitting entering vehicles. If adequate sight distances are not present, sight distance may be improved by changing the grade of the intersection or driveway entrance or by removing obstacles to vision such as clearing vegetation. The sight

Commentary

their traffic in vehicles larger than standard passenger vehicles, the standards in the third column of Table 10.15-1 shall apply. On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 10.15-1 shall apply.

distance measurements given here are based on the sight distance regulations stipulated in the MDOT’s “Highway Driveway and Entrance Rules.” The mobility and retrograde arterial sight distance standards are designed to be at longer lengths so that vehicles on the main arterial can maintain at least 85% of the posted speed if a car enters the highway ahead of them.

Table 10.15-1 Minimum Sight Distance Standards for Subdivision Accesses

Posted Speed	Sight Distance Standard Vehicles	Sight Distance Larger Vehicles	Mobility Sight Distance
(MPH)	(Feet)	(Feet)	(Feet)
20	155	230	Not applicable
25	200	300	Not applicable
30	250	375	Not applicable
35	305	455	Not applicable
40	360	540	580
45	425	635	710
50	495	740	840
55	570	855	990
60	645	965	1,150

7. Access design shall be based on the traffic volume estimates anticipated to be carried by the internal subdivision street. Traffic volume estimates shall be defined by the latest edition of the *Trip Generation Manual* published by the Institute of Transportation Engineers. The following traffic volume standards shall apply to the design of subdivision accesses connecting to

The traffic volume thresholds used in the Model are based on Maine DOT’s access permitting procedures. Low and Medium Volume Accesses are equivalent to traffic thresholds for driveways and entrances respectively. High Volume Accesses are equivalent to the thresholds that are used to trigger the MDOT Traffic Movement Permitting process. These same traffic volume thresholds are used in the street design standards section.

external streets:

- a. Low Volume Access: An access with 50 or less passenger car equivalent trips per day.
- b. Medium Volume Access: Any access with more than 50 passenger car equivalent trips per day but less than 100 passenger car equivalent trips during the peak hour.
- c. High Volume Access: Any access with 100 or more passenger car equivalent trips during the peak hour.

8. Basic Access Design Standards for Low and Medium Volume Accesses
The following minimum access design standards shall apply to all low and medium volume accesses connecting to external streets:

The Access Design Requirements are compatible with the MDOT "Highway Driveway and Entrance Rules." The minimum access width must be increased to the cross section width (including the required traveled way width and if applicable, shoulders) if the minimum access width in Table 10.15-2. is narrower than the cross section width of the street.

Table 10.15-2. Access Design Standards for Low and Medium Volume Accesses

<i>Basic Standards</i>	<i>Low Volume</i>	<i>Medium Volume</i>	
	(feet)	(feet)	
Minimum Access Width:*	Majority Passenger Vehicles	14	
	>30% Larger Vehicles	30	
Minimum Curb Radius:	Majority Passenger Vehicles	10	
	>30% Larger Vehicles	15	
Minimum Corner Clearance to:**	Unsignalized Intersection	75	
	Signalized Intersection	125	
Minimum Access Spacing***:	MPH of External Road		
		No Require-ment	No Requirement
	35 or less:		
	40	175	175
	45	265	265
	50	350	350
55 or more	525	525	

*Minimum widths for low or medium volume accesses shall be either the minimum cross section width of the internal subdivision street or the minimum access width in Table 12.2.-2, whichever width is greater.

**Minimum corner clearance shall be the distance measured from the edge of an internal subdivision access excluding radii to the edge of an external street excluding radii.

***Minimum access spacing shall be the distance measured from the edge of an internal subdivision access excluding radii to the edge of a neighboring access excluding radii.

9. Additional Access Requirements for Medium Volume Accesses

In addition to the basic access standards outlined in 10.15-2., medium volume accesses on state or state-aid highways designated as Major Collectors or Arterials shall also comply with the following

The MDOT “Highway Driveway and Entrance Rules” require the additional standards for the medium volume subdivision accesses on major collector or arterial highways. The following standards have been adapted from the rules to the *Model*.

Commentary

standards:

- a. The minimum curb radius on the edge of the access shall exceed the minimum curb radius standard in 10.15-2. if a larger design radius is needed to accommodate a larger design vehicle.
- b. A throat shall be constructed around the access in order to store vehicles waiting to exit the access. The throat shall be of sufficient length to prevent incoming vehicles from queuing back into the highway. Access from the throat to parking or other areas shall be prohibited.
- c. A separator strip or strip of land that separates the roadway from the throat or parking area shall be constructed. The access separator strips shall be installed between the parking area and the roadway and along the throat. The Board shall determine if the separator strip shall include curbing, walkways, ditching, and/or vegetation. The separator strip shall extend away from the highway at a minimum of 9 feet from the traveled way of the external road.
- d. The Board shall determine if one two-way or two one-way access (es) will be required for the proposed subdivision. If a one-way system is required and the predominant traffic volume is

Although Table 10.15-2 provides a longer minimum turning radii for subdivision's serving more than 30% of their traffic for trucks, subdivision's serving even more truck traffic or extremely large vehicles may require longer curb radii.

Throat length should be based on the anticipated queuing distance at a subdivision based on the subdivision's peak hour traffic and the design vehicle length for the proposed subdivision.

The Board's materials and construction standards for a separator strip should be reasonable and consistent with the subdivision's surroundings and/or other proposed subdivisions in the municipality.

Boards should consult a municipal engineer or retain a consultant in making a determination of whether a one two-way or two one-way access will be required for a subdivision.

truck traffic, the entrance will be configured on the minimum angle that permits the truck to enter or leave the highway safely and conveniently. Otherwise all one way accesses will be configured perpendicular to the highway for at least the length of the design vehicle. For one-way access systems, the Board shall determine if a physical separation of curbing, ditching, grass or other landscaping must be used between the two one-way accesses. Both portions of a one-way access must be separated from another one-way access by at least 12 feet.

10. All high volume accesses shall meet the requirements of the Maine Department of Transportation's "Rules and Regulations Pertaining to Traffic Movement Permits." A copy of the Maine Department of Transportation's required traffic study shall be submitted to the Board. The Board shall develop design standards for the proposed subdivision access based on the findings of the traffic study submitted to the Maine Department of Transportation. The design standards shall be compatible with the performance standards cited in Section 10.15.B of the Subdivision Regulations.

High volume subdivisions will require a detailed traffic study. The Maine DOT already regulates subdivisions generating 100 or more peak hour trips through its Traffic Movement Permitting process. Design requirements considered in the Traffic Movement Permitting process address signage, curb cuts, raised medians, landscaping, sight distances, driveways per lot, corner clearance, minimum spacing, turning radii, driveway widths, approach grades, auxiliary turning lanes, driveway throat lengths, lighting, parking and loading docks.

B. Street Design and Construction Standards.

1. General Requirements.

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

Many municipalities have an ordinance which sets out the minimum specifications for a street proposed to be accepted as a public way. The specifications in the subdivision standards should be coordinated with the specifications in the local street acceptance ordinance if one has been enacted. Section B.1.a also spells out that approval of a final plan does not constitute acceptance of a proposed public way.

This section spells out the information which must be included on the detailed street drawings.

- edge of shoulder, clear zone, 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, vertical clearance and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Upon receipt of plans for a proposed public street the Board shall forward one copy to the municipal officers, the road commissioner, and the municipal engineer for review and comment. Plans for streets which are not proposed to be accepted by the municipality shall be sent to the municipal engineer for review and comment.
- d. Where the applicant proposes improvements within existing public streets, the proposed design

The review authority should receive comments from the appropriate municipal officials as to the adequacy of the plans. If the municipality does not have a municipal engineer on staff, the review authority should consider retaining a consulting engineer to review street design and construction plans for conformance with the appropriate standards. The names of the municipal officials should be changed to reflect the names of the individuals responsible in each community.

Off-site improvements, whether the addition of a turning lane or the widening of a shoulder, will occasionally be proposed by an applicant. These improvements to existing roads should be reviewed and approved by the appropriate authority, either the municipal road

Commentary

and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.

e. Private Roads.

The following standards shall apply to all proposed private roads:

1. All private roads shall be designated as such and will be required to have adequate signage indicating the road is a private road and not publicly maintained.
2. Except for sidewalk, bicycle provisions and minimum grade requirements stipulated in this Section, all private roads shall adhere to the road design standards of this Section.
3. The Board may approve a reduction of the right of way easement for private roads to a minimum of 30 feet in land use density areas designated as "Rural" in Section 10.15.1.B.2.f.
4. All properties served by the private road shall provide adequate access for emergency vehicles and shall conform to the approved local street numbering system.
5. All private roads shall have adequate provisions for

commissioner or the state. If the arterial is a state highway contact the regional office of the Department of Transportation.

The *Model* requires that private roads adhere to most public road design standards, because the *Model* allows a great deal of flexibility in its street standards. The authors of the *Model* believe the standards are not overly constrictive for private roads

The *Model* suggests that some streets in subdivisions, which are proposed to be maintained as private ways, need not meet the same standards as streets which are proposed as public ways. The note on the plan is suggested to put prospective buyers on notice that the streets

Commentary

drainage and stormwater runoff as provided in Section 10.12.

6. 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 all municipal street design and construction standards.”

7. A road maintenance agreement, prepared by the Town Attorney shall be recorded with the deed of each property to be served by a common private road. The agreement shall provide for a method to initiate and finance a private road and maintain that road in condition, and a method of apportioning maintenance costs to current and future users.

2. Street Design Standards.

- a. These design guidelines shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met

are to remain private ways and they should not expect the municipality to provide maintenance or plowing or to eventually accept them as public ways.

Combined with section 6, this provision helps protect towns from management headaches that can occur when private roads are not set up to be adequately managed.

The *Model* is intended to provide some flexibility in the design of the subdivisions as long as the performance standards of Article 10 and the criteria of the statute are met. To that effect, review authorities should keep in mind that other municipal ordinances may prescribe certain design standards which must be met, particularly for streets which are proposed to be dedicated as public ways.

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 this Article.

- b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
- c. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
- d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in these regulations), or when the comprehensive plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road

Reserve strips are fairly narrow strips of land between an existing or proposed street and other property which can be used to limit access to the street by others. The *Model* suggests that reserve strips be prohibited unless they are given to the municipality.

This section requires an applicant to dedicate land to the municipality for widening of an undersized right-of-way for a commercial street. The entire width necessary is not required to be dedicated, only half the width, with the other half to eventually come from the property owner on the other side of the street.

This section, unlike the previous section does not require that land be dedicated for right-of-way widening but does prohibit land along a narrow street from being used in the lot size or building setback calculations that may be required by a zoning ordinance, so that lots and buildings will still be conforming with those requirements should the street be widened. If the municipality has indicated that widening of the street is a priority by including it in the Capital Investment Plan, then dedication is required.

Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance. When such widening or realignment is included in the municipality’s capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.

- e. Any subdivision expected to generate average daily traffic of 200 trips per day or more shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. 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, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- f. The design standards of Table 10.15-3 shall be compatible with the traffic volume access thresholds referenced in Section 10.15.1.A.7. In addition, the

Many model street design regulations have had a maximum permissible length for dead end streets or cul-de-sacs. ITE’s *Recommended Guidelines* suggest a maximum length of 1,500 feet. These maximums are usually based on the assumption of suburban development patterns which may not be replicated in many rural Maine communities. The National Association of Home Builders, in their *Manual for Residential Street Development Standards*, suggests that dead end streets be designed for average daily traffic of up to 200. The average traffic generation for a single family home is approximately 10 trips per day. If one assumes 100 feet of frontage and lots on both sides of the cul-de-sac, 200 trips per day would equate to about 1,000 feet. Because of the varying frontage requirements across the State, and a preference for a performance based standard or guideline, the *Model* suggests a design based on traffic generation rather than length or number of lots. *The Subdivision and Site Plan Handbook*, published by the Center for Urban Policy Research at Rutgers University suggests a maximum average daily traffic for cul-de-sacs of 250 trips.

Beneath sections f1, f2 and f3 the Municipality must list the zones that are appropriate for rural, village/urban or commercial/industrial. Although each town that adopts the *Model* will have different design expectations, the model recommends that a Rural land density pattern be adopted for subdivisions with average lot widths that are 100’-150’ or greater. The Village/Urban land use density pattern would apply to subdivisions with average lot widths that are 100’-150’ or less. Any commercial or industrial subdivision road standard should correspond with municipal land use zones that allow commercial or industrial uses.

street design standards shall be compatible with the estimated Average Daily Traffic expected to occur on the internal subdivision street, and the land use type and lot density allowed in the land use zone. The following land use density pattern requirements shall be required for the following land use zones.

- 1. Land use density patterns that are Rural (R) shall apply to the following zones:
_____ , _____
- 2. Land use density patterns that are Village/Urban (V/U) shall apply to the following zones:
- - - - - , _____
- 3. Land use density patterns that are Commercial/Industrial (C/I) shall apply to the following zones if the proposed development will contain commercial or industrial uses:
_____ , _____

Go to Road Design Chart, Table 10.15-3 on pages 10-53A & B

- g. The Board shall have authority to increase the minimum standards in Table 10.15-3, if the Board approves a road design that will accommodate travel speeds greater than 30 mph.

The road design guidelines in Section 10.15-3 are designed for slow moving traffic, and are generally not recommended to have design speeds greater than 30 mph. A design speed of 30 mph does not mean that some drivers cannot comfortably travel greater than 30 mph. In almost all cases, subdivisions should be designed for slow moving traffic and should not be encouraged to function as a throughway, because they are designed to provide access to lots, protect drivers turning in and out of lots, and protect pedestrians and bicyclists. Occasionally, subdivisions can be designed as minor collector roads, but given that access is also important to the function of the minor collector road, they should also be designed for slow moving traffic.

Table 10.15-3 Street Design Guidelines

Access Category	Low Volume			Medium Volume									High Volume					
	1-50 ADT			50-100 ADT			100-400 ADT			400-1500			1500+			100 PCE+		
Traffic Volume Level	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C	R	V/U	I/C
Minimum Right of Way	40'	40'	40'	40'	40'	50	50	50	50	50	50	60	60	60	60	60	60	60
Minimum Traveled Way Width	14'	16'	16'	18'	18'	24'	18'	20'	28'	18'	20'	30'	20'	22'	30'	22'	24'	30'
Minimum Shoulder Width (each side)*	0'	0'	4'	0'	1'	2'	2'	1'	2'	2'	2'	4'	3'	4'	5'	3'	4'	5'
Clear Zone Width (each side)	7'	7'	7'	7'	7'	7'	7'	7'	7'	8'	8'	8'	8'	8'	8'	8'	8'	8'
Minimum Vertical Clearance**	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'	14'
Minimum Grade	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.50%	0.5
Maximum Grade***	8%	8%	5%	8%	8%	5%	8%	8%	5%	6%	6%	5%	6%	6%	5%	5%	5%	5%
Minimum Centerline Radius****	100'	100'	350'	100'	100'	350'	100'	100'	350'	140'	140'	350'	140'	140'	350'	350'	350'	350'
Roadway Crown Asphalt Surface	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"/ft	.25"
Roadway Crown Aggregate Surface	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A
Minimum Internal Sight Distance	155'	155'	230'	155'	155'	230'	155'	155'	230'	155'	155'	230'	155'	155'	230'	155'	155'	230'
Minimum Internal Spacing Standards*****	25'	25'	40'	25'	25'	40'	25'	25'	40'	25'	25'	40'	25'	25'	40'	25'	25'	40'
Minimum Internal Access to Street Corner Clearance*****	30'	30'	75'	30'	30'	75'	30'	30'	75'	30'	30'	75'	30'	30'	75'	30'	30'	75'

*The Board may require an increase in shoulder width for stormwater management purposes or road stabilization.

**The minimum vertical clearance is the vertical clearance over the entire roadway width, including any shoulders.

***Maximum grade may be exceeded for a length of

****Superelevation is not recommended for any subdivision street, unless recommended by Town engineer or Town-hired consultant.

*****Internal spacing distances are measured from the edge of one internal subdivision access to another, excluding curb radii.

*****Internal access to street corner clearances are measured from the edge of an internal subdivision access to an intersecting public road, excluding curb radii.

The street design guidelines used in the *Model* were developed to be compatible with the low, medium and high traffic volume thresholds used to guide access design in Section 10.15.1.A.7. These standards are further broken down by the estimated traffic volume expected to be served by the internal subdivision street, and the “density pattern” defined by zone in Section 10.15.1.B.2.f. The road standards were developed to correspond with ADT and zoning density information in order to provide Board’s with context sensitive design criteria for geometric road standards.

The right-of-way must be wide enough to contain the traveled way, the clear zone, curbing or shoulders where constructed, and drainage swales or utility infrastructure where they are needed. Streets wider than necessary may have unintended deleterious effects on the visual characteristics of an area. Full grading of the right-of-way should not take place, if it is not necessary.

The traveled way must be wide enough to allow safe passage of vehicles in either direction, yet should not be wider than necessary. Wider roads tend to compromise the intended design speed of the street. In the preparation of the *Model*, several sources were consulted. The recommendations contained herein are based on references that advocate minimal widths without compromising safety or access for emergency vehicles.

Shoulders have multiple purposes for streets. At a minimum, shoulders may be required for stormwater management purposes or for road stabilization. The shoulder guidelines in Table 10.15-3 are based on the assumption that shoulders are not needed for stormwater management or road stabilization. For residential access streets with low Average Annual Daily Traffic in particular, shoulders are discouraged to minimize maintenance costs (other than mowing) and maintain the narrow appearance of the street in order to discourage speeding. An additional benefit to shoulders is that they can have some safety benefits to pedestrians that don’t have sidewalks, bicyclists, or cars that don’t have parking lanes dedicated to them on the side of the street. Further on in this section, the *Model* provides some direction for Boards interested in providing additional shoulder lengths for sections of road that can be expected to have a high demand of pedestrian and bicycle activity or demands for on-street parking.

Clear zone widths are sometimes confused with shoulder widths. The clear zone does not require a base above the natural topography of the ground, except for cut and fill alterations for stormwater management. The clear zone is an area that can be used as a snow removal location in the winter, it can serve the function of a shoulder and provide some space for an occasional vehicle to park, or provide space to an occasional pedestrian walking down a street.

The 14 foot minimum vertical clearance is designed to accommodate service delivery vehicles, emergency vehicles, or large trucks.

A minimum grade is required to prevent standing water from accumulating within the street.

The maximum permissible grade is often a trade-off between minimizing construction costs and maximizing safety. ITE’s Recommended Guidelines vary the maximum permissible grade depending on the general terrain of the area. ITE suggests a 4% maximum grade in generally level (grade range of less than 8%) areas, an 8% maximum grade in rolling (grade range of 8% - 15%) areas and a 15% maximum grade in hilly (grade range of over 15%) areas. However, ITE also suggests that areas with winter icing conditions “may prefer” a maximum grade of 8%. The *Model* therefore suggests maximum grades of 8% or less. The footnote to the table does permit the maximum grade to be exceeded for short lengths.

A minimum centerline radius controls how sharp a curve may be designed into a street. The Model does not recommend superelevating any curves, because the design speeds for all subdivisions in this Model are designed for slow speeds.

A roadway must be crowned (higher in the center) to provide adequate drainage of storm water from the traveled surface. Aggregate surface streets require more crown due to their relative surface roughness.

Internal sight distances are inserted into the internal design of the subdivision street so that sight distance obstructions including vegetation, structures, and vertical and horizontal curves do not compromise the safety of drivers, pedestrians, and bicyclists using the subdivision street.

Internal spacing standards are applicable to the accesses inside the subdivision and their relationship to one another. This distance is represented by the edge of one driveway or entrance to another not including the curb radius.

Internal access to street corner clearance refers to the distance from the edge of the driveways and entrances (not including curb radii) internal to the subdivision to intersecting public streets.

Commentary

- h. On Street Parking.
The Board shall have authority to require a paved cross section of 26 feet for residential subdivisions with average lot widths between 100 feet and 40 feet wide for on-street spillover parking.
- i. Curbs.
 - 1. Curbs shall be installed for stormwater purposes and/or to protect the pavement edge from unraveling along parking lanes or in very intensive developments where heavy use may erode the planted area at the edge of the pavement. Curbs for stormwater management shall be contingent on the stormwater design standards specified in Section 10.13. If curbs are not necessary for stormwater management purposes, they are not required for subdivisions in which the average lot width is 100 feet or greater.
 - 2. If the Board requires a vertical curb and no parking lane is present, a minimum shoulder of 2 feet is recommended from the traveled way to the

With lots less than 40 feet the street line would be interrupted so often by curb cuts that sufficient on-street parking would not fit between them. For residential lot widths greater than 100 feet, off-street parking requirements in the zoning should be adequate for the subdivision. Likewise, off-street parking for zoning for commercial and industrial uses should be adequate for commercial and industrial subdivisions.

The Model recommends that curbs not be installed unless necessary for stormwater management purposes or to protect a edges of pavement where there is a great deal of on-street parking. Curbs are usually not recommended because they increase construction costs and do not allow a more natural stormwater management system. With the installation of curbs, minimum shoulder lengths are required.

curb. For sloped curbs where no parking lane is present, a minimum 1 foot shoulder is required from the traveled way to the curb.

3. Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement.
- j. The Board may require additional shoulder lengths in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other bicycle traffic generators suggest that additional shoulder lengths will be needed for bicycle traffic. In situations where additional shoulder lengths are required for bicyclists, the minimum width of a paved shoulder shall be 1 foot on either side of the traveled way for all low and medium volume streets in Rural (R) designated zones defined in Section 10.15.1.B.2..f. Paved shoulder widths for low and medium volume streets in Village/Urban (V/U) designated zones shall be a minimum of 2 feet on either side of the traveled

This provision gives the Board some flexibility in addressing additional shoulder requirements for any significant anticipated bicycle traffic.

way.

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

l. Dead End Streets.

In addition to the design standards in Table 10.15-3, dead-end streets shall be constructed to provide a cul-de-sac turn-around with a travel lane and width equal to the minimum width required for the internal subdivision street. For all residential cul-de-sacs the minimum radius shall be 38 feet. For commercial/industrial cul-de-sacs the minimum radius shall be 50 feet. Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Board shall require the reservation of a twenty foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a right-of-way easement equal to the right of way width of the internal subdivision street in line with the street to provide continuation of the road where future subdivision is possible. A T-turn around is permissible for residential subdivisions carrying an ADT of 100 or less. The turn around area

The *Model* suggests that cul-de-sacs be constructed with a landscaped interior. Road commissioners in some municipalities prefer the entire cul-de-sac to be paved for ease of snow removal. Paving the entire cul-de-sac results in higher construction costs for the developer and higher maintenance costs for the municipality should the cul-de-sac become a public way. The authors of the *Model* believe that the retention or creation of landscaped areas provides a better living environment. Check with the fire department and road commissioner to make sure that the suggested minimum radii will accommodate fire fighting equipment and snow removal equipment. A T-turn around option is an option for some streets generating an ADT of 100 or less.

shall have a width equal to the street width, a 5 foot turning radius, and a total length of 50 feet centered above the street.

m. Sidewalks.

The Board may require sidewalks in any situation where the proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other pedestrian traffic generators suggest sidewalks will be needed. The Board shall determine if sidewalks will be installed on one side or both sides of the street, and if the sidewalk shall be a bituminous or Portland cement concrete sidewalk.

1. Location.

Sidewalks may be located adjacent to the curb or shoulder but it is recommended to locate sidewalks a minimum of 2 1/2 feet from the curb facing or edge of shoulder if the street is not curbed. If no shoulder is required, the sidewalk shall be located a minimum of 4 feet from the edge of the traveled way.

2. Bituminous Sidewalks.

(a) The “subbase” aggregate course shall be no less than twelve inches thick after compaction.

Sidewalks provide maximum safety for children as they play or walk to schools and playgrounds, and for others walking along the road, but sidewalks should only be required where their infrastructure is needed. Sidewalk placement is site specific. The *Model* provides the Planning Board with some flexibility to determine where sidewalks are needed, how many, and what construction materials should be used.

It is common practice to place the sidewalk next to the curb or shoulder. The reason for this practice is often given as ease of snow removal: the plow driver can use the wing plow and clear the sidewalk as the street is cleared. However, a wider separation distance will maximize the safety factor for pedestrians and children, which is the major purpose of the sidewalk. An additional advantage of separating sidewalk and street is that the warped area necessary for a proper driveway gradient is minimized by having a portion of the gradient fall within the border area. If sidewalks are provided adjacent to the street an additional two feet of sidewalk width is desirable.

- (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 twelve inches thick after compaction.
 - (b) The portland cement concrete shall be reinforced with six inch square, number 10 wire mesh and shall be no less than four inches thick.
- 3. Street Construction Standards.
 - a. The minimum thickness of material after compaction shall meet the specifications in Table 10.15-4..

The specifications for roadway materials were prepared with the assistance of the Maine Local Roads Center within the Maine Department of Transportation. As is explained below the use of a crushed gravel base course is not always required. Private rights-of-way and low-density rural subdivision roads need not be paved, but a surface gravel course meeting the specifications for distribution of material needs to be used.

**Table 10.15-4.
Minimum Pavement Materials Thicknesses**

Street Materials	Thickness Standards
Aggregate Subbase Course	
(Max. sized stone 6")	
Without base gravel	18"
With base gravel	15"
Crushed Aggregate Base Course	
(if necessary)	3"
Hot Bituminous Pavement	
Total Thickness	3"
Surface Course	1 1/4"
Base Course	1 3/4"
Surface Gravel	
(if permissible)	3"

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 fifty foot intervals.
2. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, clear zones, 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

It is not necessary or even desirable to clear the entire fifty foot right-of-way. Clearing should be limited to the area needed for the roadway, considering drainage swales and cuts and fills.

The existence of unsuitable material, such as peat or high clay soils must be accounted for in the construction of a roadway. These materials must either be removed, or in some cases geotextiles may be used to overcome the limitations of the native subsoils. Geotextiles are man-made materials which act to limit the mixing of the gravel subbase and any poor material beneath it therefore removing the necessity to remove the poor material.

gravel aggregate sub-base 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 to 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.
- c. Bases and Pavement.
1. Bases/Subbase.
 - (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

The limits on side slope are included to provide a more stable roadway, promote safety in the case of vehicles leaving the roadway, and to prevent erosion problems.

Lack of coordination in road construction and utility placement, besides raising costs, can lower the quality of the pavement. If service connections are not installed during street construction, a new street will need to be excavated as houses are built and connected to the utilities, resulting in a patched street surface.

The specification for aggregate subbase course is fairly open. Wide variations in materials are allowed around Maine. The specification allows rocks which are six inches or less in diameter. There is a "sieve designation" for that portion which is less than three inches in size. For that portion which is greater than three inches, there are no limits on the amount of three to six inch stones. The gravel with many large stones cannot be graded to a fairly smooth surface. On the other hand, if there is very little three to six inch material, then the material may be a good gravel and compact well. If it is very sandy or composed predominantly of one-sized particles, this can present compacting problems because it acts fairly "dead" and may not support construction traffic well. The need for a crushed aggregate base course will depend on the quality of the subbase and may have to be determined in the field by a qualified individual.

meet the grading requirements of Table 10.15-5.

**Table 10.15-5
Aggregate Subbase Grading Requirements**

<u>Sieve Designation</u> <u>Sieves</u>	<u>Percentage by</u> <u>Weight Passing</u> <u>Square Mesh</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

The aggregate base course is needed only when the subbase course does not contain a distribution of particle sizes which allows it to be fine graded yet support the loads of traffic.

passes a three inch square mesh sieve shall meet the grading requirements of Table 10.15-6.

Table 10.15-6. Base Course Grading Requirements

<u>Sieve Designation</u>	<u>Percentage by Weight Passing 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. 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.
- 3. Pavements.
 - (a) 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

The *Model* permits only hot bituminous concrete for paving material. Other paving materials such as liquid asphalt penetration or chip seals, while lower in initial cost do not provide significant structural strength. "Hot mix" seals, smoothes the ride and corrects crowns and drainage features substantially. The *Model* references the Maine Department of Transportation specifications for bituminous concrete and specifies the conditions under which pavement may be applied. Application during temperatures below those specified results in material which generally will be weaker than pavements laid during warmer months, for various reasons.

than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.

- (b) 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.

It may be wise to allow the base pavement and gravel to remain “as is” for several months so that it can consolidate under traffic. Once it has stabilized, the surface course can be placed.

Commentary

4. Surface Gravel.

The Board may approve an aggregate road base for any internal subdivision public street in which zoning requires a minimum of one dwelling unit per 7 acres, or any private way with a maximum estimated Average Daily Traffic of 50 ADT or less. The surface gravel shall meet the gravel grading requirements of Table 10.15-7.

Gravel used for unpaved roads should meet the requirements for paved roads, but the surface gravel should be a “tighter” consistency. This means that there should be a higher percentage of fine material in the surface gravel which will wick up moisture from below and allow it to evaporate. These fine sands will also provide better surface drainage and help keep the surface compacted and dust free. However, too much fine material can easily turn a road into a muddy disaster with deep ruts. A maximum of one dwelling unit per 7 acres is considered the optimal performance for a gravel road without construction and ongoing maintenance costs exceeding the construction and maintenance costs of a typical low volume asphalt road.

Table 10.15-7

Surface Gravel Grading Requirements

<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%

ARTICLE 11 - PERFORMANCE GUARANTEES

11.1 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 into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. 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;
- B. A performance bond payable to the municipality issued by a surety company, approved by the municipal officers, or town manager; or
- C. An irrevocable letter of credit (see Appendix B for a sample) from a financial

As the name implies, the purpose of a guarantee is to assure that the improvements proposed as part of the subdivision are constructed and completed properly. One of the main purposes of the subdivision statute is to protect consumers by making sure that lots in subdivisions have adequate water and sewage disposal facilities, and that lots are accessible. The statute was first enacted in the early seventies after the infamous land rip-offs of the south resulted in purchasers acquiring worthless lots in the middle of the Arizona desert or Florida swamps often with only half built roads leading to them. One need not travel to such an exotic place to find examples here in Maine where applicants did not fulfill their responsibilities to make the proposed improvements. The new residents along a half built unpaved street typically are likely to petition town meeting seeking to have the town finish the work. With a proper performance guarantee it should not be necessary for the municipality to spend taxpayers' money to complete projects left unfinished by the developer. The amount of the guarantee should take into account inflation rates and the projected time period for construction.

The *Model* suggests four different types of acceptable guarantees. The appropriateness of each type of guarantee will vary from developer to developer and project to project.

The advantage of receiving cash is that the municipality knows it will be available when needed, without the hassle of dealing with insurance companies or banks. The disadvantage for the developer is that unless carefully coordinated with the municipality, he or she must come up with twice the amount of money necessary to do the job. If the municipality accepts cash as the performance guarantee, it must be careful to keep track of it in a separate account and make sure it does not get intermingled in the municipality's general fund. Also, any interest earned on the money should be paid to the developer when the money is returned.

Up until the mid-1980s performance bonds were the typical performance guarantee. Bonds are similar to an insurance policy taken out by the developer which names the municipality as the beneficiary should the developer fail to perform adequately. Like many insurance policies, they are frequently loaded with fine print, require review by the municipal attorney, and are difficult to collect if the developer defaults. A disadvantage to the developer is that typically, in order to buy a bond, he or she has to have cash available equivalent to the amount of the bond. Again, the developer is faced with having to raise twice the cash necessary to construct the subdivision.

In recent years the irrevocable letter of credit has become the most popular form of guarantee. The irrevocable letter of credit is a letter from the bank, or other financial institution, indicating that it has made a loan commitment, and should it be necessary, the

Commentary

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.

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.

11.2 Contents of Guarantee.

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

11.3 Escrow Account.

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

municipality may have access to the funds set aside for the development. Generally, the developer does not have access to the money to pay the contractors until the municipality has told the bank that the work has been satisfactorily completed.

The amount of the guarantee should be based on the cost estimates for the improvements submitted with the final plan. The municipal officials listed in this section should review those cost estimates for accuracy and the terms of the guarantee for the extent of the protection afforded the municipality.

A complete listing of all the items mentioned in this section will provide the maximum protection to both the developer and the municipality.

shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

11.4 Performance Bond.

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

11.5 Letter of Credit.

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

11.6 Phasing of Development.

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

11.7 Release of Guarantee.

Prior to the release of any part of the performance guarantee, the Board shall

The performance bond should not be a blanket bond which covers the contractor or developer, but should be specifically referenced to the particular subdivision for which an application has been filed.

The letter of credit should not be solely an indication of a willingness to lend funds but an actual commitment of funds from the financial institution. The letter should stipulate that the funds may only be used for the subdivision under consideration, and should contain the procedures for the release of the money to both the developer and should it be necessary, the municipality. A sample letter of credit is included as Appendix B.

It may be advantageous to both the municipality and the applicant for approval to be given in phases. For the municipality, there may be some orderliness to the development of the subdivision, allowing the expansion of municipal services to expand more slowly. For the applicant, only a portion of the costs must be financed at any one time.

The review authority must be extremely careful not to release the guarantee prior to being sure that all of the work has been completed satisfactorily. The review authority should receive a

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.

11.8 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.

11.9 Improvements Guaranteed.

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

written report from the inspecting official.

This section should be changed to refer to the proper inspecting official, whether it be the road commissioner, director of public works or code enforcement officer. If the inspector finds any problems, he or she should immediately report the findings to the review authority, the applicant and the municipal officers. The applicant should be given a reasonable five to ten day period to correct the problems. Failure to resolve the problems should result in the municipality taking the necessary steps to be assured that the work is completed properly. The necessary steps will vary depending on the type of guarantee and the magnitude of the problem. The municipal attorney should be consulted along the way.

The performance guarantee should cover the costs of all improvements necessary to meet the standards, and which the municipality has a vital public interest in seeing completed. The costs of individual lot improvements or building construction, or common recreational facilities to be owned and used by the lot owners, need not be covered by a guarantee.

ARTICLE 12 - WAIVERS

12.1 Waivers of Certain Submission Requirements Authorized.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in nature, it may waive portions of the submission requirements, unless prohibited by these regulations or Maine statutes, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations.

12.2 Waivers of Certain Improvements Authorized.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning

This section allows the review authority to waive submission of information otherwise required by the regulations when that information is not necessary to make a determination that the standards of the regulations and the criteria of the statute are met. The applicant retains the burden of proof that the standards and criteria are met. There may be instances where the information required by the regulations is not the most appropriate to demonstrate compliance with the regulations and some other information may be better suited.

This section allows the review authority to waive required improvements where they may not be appropriate, even though called for in the regulations. For instance it may not make sense to install sidewalks in a subdivision if there are no other sidewalks to which they would connect. If the municipality's capital investment plan has not identified construction of sidewalks into that neighborhood as a municipal priority, the review authority may be justified in not requiring sidewalks. Local adaptation of the regulations during the adoption process should prevent inconsistencies like this. Please note that the *Model* does not suggest allowing the performance standards to be waived and that the review authority has no power to waive any of the statutory criteria.

ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

12.3 Waiver of Procedural Steps

The Board may allow an applicant to combine the final plan and preliminary plan application steps into one procedure, upon making all of the following written findings of fact:

1. No new streets are proposed;
2. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a “Permit by Rule;”
3. The Board agrees to approve a waiver from the requirement to submit a stormwater management plan and sedimentation and erosion control plan, as ordinarily required by sections 6 or 7; and
4. The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.

12.4 Conditions for Waivers.

Waivers may only be granted in accordance with Sections 13.1, 13.2 and 13.3. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

Commentary

12.5 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.

The state statute (Title 30-A M.R.S.A., §4406, sub-§1.B) requires that when approval is based in part on the granting of a variance from a subdivision standard “that fact shall be expressly noted on the face of the subdivision plan to be recorded.” The variance is not valid unless recorded within 90 days. To avoid confusion with a zoning variance, the *Model* has used the term waiver. Neither waiving submission requirements, nor waiving the final plan step requires a note on the plan, because the applicable standard must still be met.

ARTICLE 13 - APPEALS

13.1 Appeals to Superior Court.

An aggrieved party may appeal any decision of the Board under these regulations to _____ County Superior Court, within thirty days of the date the Board issues a written order of its decision.

The *Model* suggests that appeals proceed directly to court under Rule 80-B of the *Maine Rules of Civil Procedure*, rather than being pleaded before a local appeals board first. There is concern when one local board must justify its decision before another local board who may not have a working knowledge of the issues the first board deals with on an everyday basis.

In *Hylar v. Blue Hill*, the Maine Supreme Judicial Court ruled that the time for an appeal for a decision regarding a subdivision approval runs from the time a written decision is issued, not from the time the decision is made. This is one more reason that the issuance of a written decision to the applicant, with proper findings of fact and conclusions, is so important. See Appendix M for a model notice of decision.

LIST OF APPENDICES

Appendix A—MRSA Title 30-A, Chapter 187, Subchapter IV, Subdivisons	A-1 to A-11
Appendix B—Sample Letter of Credit.....	B-1 to B-2
Appendix C—Sample Storm Drainage Easement.....	C-1
Appendix D—Model Application Form	D-1 to D-3
Appendix E—Receipt of Subdivision Application	E-1
Appendix F—Model Notice to Abutters of Receipt of Application	F-1
Appendix G—Model Notice to Planning Board and Clerk of Neighboring Municipalities	G-1
Appendix H—Notice of Incomplete Application.....	H-1
Appendix I—Notice of Complete Application.....	I-1
Appendix J—Model Notice of Public Hearing	J-1
Appendix K—Agreement to Extend Subdivision Review Period	K-1
Appendix L—Model Notice of Approval of Preliminary Plan Application	L-1
Appendix M—Model Notice of Decision	M-1 to M-3
Appendix N—Preliminary Plan Application Submission Checklist.....	N-1 to N-3
Appendix O—Final Plan Application Submission Checklist	O-1 to O-3
Appendix P—Subdivision Plan Review Checklist Article 10 Performance and Design Standards	P-1 to P-6
Appendix Q—Maine Regional Councils.....	Q-1
Appendix R—Maine Soil and Water Conservation District	R-1
Appendix S—Typical Street Cross Section	S-1
Appendix T—Planning Board Record of Subdivision Applications	T-1

Appendix A

Title 30-A, Chapter 187, Subchapter IV

Subdivisions

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

§4401. Definitions

As 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 divisions 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 Wallgrass 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 Kennebeco River from its inlet into Cupsuptic Lake to the Rangeley 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 Wymman 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 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. "Headnote=" 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. "Headnote=" 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. "Headnote=" 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.

S4402. 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 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.

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 must 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 at 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 the land above sea level and its relation to the flood plains;
- B. The nature of soils and subsoils and their ability to adequately support waste disposal;
- C. The slope of the land and its effect on effluents;
- 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, 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 1, article 2-B, 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 1, article 6, 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 1, article 6, where applicable, whichever date is later, or the variance is void.

B-1. Whenever the subdivision is exempt from Title 38, chapter 3, subchapter 1, article 6, 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 1, article 6, 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 1, article 6, 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 1, article 6, 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 1, 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 1, article 6, 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.

Appendix B

SAMPLE LETTER OF CREDIT

Jane Planner, Chairman
Your Town Planning Board
Town Hall
Your Town, ME 04000

Re: *Letter of Credit for:*
Developer, Inc.
Sunshine Estates
Your Town, Maine

Dear Ms. Planner:

This letter will confirm to Your Town that the Big Town Savings Bank has issued a loan commitment to Developer, Inc. for the purpose of constructing all required improvements in the “Sunshine Estates” subdivision.

Big Town Savings Bank will set aside \$230,000 in a Construction Escrow Account for completion of the required improvements. This account can be drawn upon by Your Town in the event that Developer, Inc. fails to complete steps A through H listed below for Windy Road on or before (two years from date of Final Plan approval).

..... Approximate Length of road 2,350 feet:

- | | |
|--|---------|
| A. Grub roadways full width of 50 feet @ \$4/ft. | \$9,400 |
| B. Shape sub-base and grade it @ \$4/ft. | 9,400 |
| C. Install under-drain culverts @ \$16/ft. | 37,600 |
| D. Install sewer @ \$22/ft. x 2,050 feet plus pump \$16,500 | 61,600 |
| E. Install water mains @ \$14/ft x 2,400 feet | 33,600 |
| F. Apply and shape 18" gravel base @ \$8.30/ft x 2,350 feet | 19,500 |
| G. Apply and shape 3" of crushed gravel; apply 1 3/4" of base course bituminous concrete to width of 24 feet, apply bituminous curb and 2" of bituminous concrete to a width of 5 feet @ \$10/ft. x 2,350 feet | 23,500 |
| H. Apply 3/4" of surface bituminous concrete to width of 24 feet @ \$5/ft | 11,800 |

Big Town Savings Bank understands that Developer, Inc., or the contractor, will notify the Town Engineer or Code Enforcement Officer before any of the above work has begun and obtain his approval in writing as he completes each phase of the road construction.

This Account will expire when Your Town acknowledges in writing to Developer, Inc. that the work outlined in Steps A through H has been completed in accordance with Your Town's subdivision regulations and street acceptance ordinance, and the approved plans of Sunshine Estates. Any funds

remaining in the account on (date specified above) for work outlined in Steps A through H which has not been completed and approved by the Town on that date will be released to the Town to complete such work. As the Town Engineer or Code Enforcement Officer issues his written approvals for each step above to Developer, Inc. the funds in this Account will be released based upon the schedule above.

Drafts drawn upon this account must be for this particular subdivision and to complete any work which is outlined above. Furthermore, drafts must be accompanied by itemized statements showing costs of work to be completed and must be submitted prior to (six to nine months following date specified above). Your Town will not be responsible for repayment or interest cost for any funds released to the Town for work not completed on or before (date specified above).

Very Truly Yours,

Bob Banker
Loan Officer

SEEN AND AGREED TO: _____
Developer, Inc.

Your Town hereby accepts this original letter as evidence of Developer, Inc.'s obligation to be performed.

Town Manager
or
Chair of the Select Board

Appendix C

SAMPLE STORM DRAINAGE EASEMENT

KNOW ALL MEN BY THESE PRESENTS:

That _____, of _____, County of _____, being the owner of a certain lot or parcel of land in the Town of _____, County of _____ and State of Maine, which premises are more fully described in a certain subdivision plan entitled _____, by _____, dated _____, and recorded in the _____ County Registry of Deeds in Plan Book _____, Page _____, which description of said premises is included herein by reference. For and in consideration of the sum of One Dollar and other good and valuable considerations paid by the Inhabitants of the Town of _____, State of Maine, the receipt of which is hereby acknowledged, Grantor(s) do(es) hereby give, grant and quit-claim unto the said Inhabitants of the Town of _____ an easement and right-of-way for the construction, maintenance, repair or replacement of storm drains on or across said premises. Said easement shall be thirty (30) feet in width and _____ () feet in length across Lots numbered _____ and shall be located as shown on the above-mentioned subdivision plan.

TO HAVE AND TO HOLD the said easement and right-of-way unto the said Inhabitants of the Town of _____ for use for storm drainage so long as the same shall be used and maintained for such purposes; and the Grantor(s) hereby dedicate(s) their respective interests in said strip of land to public use for such purposes. Grantor(s) further grant(s) to the Inhabitants of the Town of _____ the right to enter upon said land for purposes hereinbefore mentioned and Grantor(s), their heirs or assigns shall not construct any structure within said easement or plant vegetation within said easement without the express written consent of the Director of the Town of _____ Department of Public Works and the Town Engineer of the Town of _____.

IN WITNESS WHEREOF, the said _____ have hereunto set my (our) hand(s) and seal(s) this _____ day of _____, in the year of our Lord one thousand nine hundred and _____.

SIGNED, SEALED AND DELIVERED in presence of

STATE OF MAINE

_____, ss. _____, 19____

Personally appeared, before me, the above-mentioned _____ and acknowledged the foregoing instrument to be _____ free act and deed.

Notary Public/Justice of the Peace

Appendix D

MODEL APPLICATION FORM

Town of _____ Subdivision Application

Subdivision Name _____
Application Number _____

APPLICANT INFORMATION

Name of Property Owner: _____
Address: _____

Telephone: () _____ - _____

Name of Applicant: _____
Address: _____

Telephone: () _____ - _____

If applicant is a corporation, check if licensed in Maine q Yes q No and attach a copy of State's Registration.

Name of applicant's authorized agent: _____
Address: _____

Telephone: () _____ - _____

Name of Land Surveyor, Engineer, Architect or others preparing plan:

Address: _____

Telephone: () _____ - _____ Registration # _____

Person and Address to which all correspondence regarding this application should be sent:

What legal interest does the applicant have in the property to be developed (ownership, option, purchase and sales contract, etc.)? _____

What interest does the applicant have in any abutting property? _____

LAND INFORMATION

Location of Property (Street Location) _____
(from County Registry of Deeds): Book _____ Page _____

(from Tax Maps): Map _____ Lot(s) _____

Current zoning of property: _____

Is any portion of the property within 250 feet of the high water mark of a pond, river or salt water body?

___ Yes ___ No

Total Acreage of Parcel: _____

Acreage to be developed: _____

Indicate the nature of any restrictive covenants to be placed in the deeds:

Has this land been part of a prior approved subdivision?

___ Yes ___ No
___ Yes ___ No

Or other divisions within the past 5 years?

Identify existing use(s) of land (farmland, woodlot, etc.) _____

Does the parcel include any waterbodies?

___ Yes ___ No
___ Yes ___ No

Does the parcel include any wetlands?

Is any portion of the property within a special flood hazard area as identified by the Federal Emergency Management Agency? ___ Yes ___ No

List below the names and mailing addresses of abutting property owners and owners across the road:

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

GENERAL INFORMATION

Proposed name of development: _____

Number of lots or units: _____

Anticipated date for construction: _____

Anticipated date of completion: _____

Does this development require extension of public infrastructure? ___ Yes ___ No ___

roads ___ storm drainage ___ other ___
sidewalks ___ water lines ___
sewer lines ___ fire protection equipment ___

Estimated cost for infrastructure improvements \$ _____

Identify method of water supply to the proposed development:

- ___ individual wells
 - ___ central well with distribution lines
 - ___ connection to public water system
 - ___ other, please state alternative _____
- Identify method of sewage disposal to the proposed development:
- ___ individual septic tanks
 - ___ central on site disposal with distribution lines
 - ___ connection to public sewer system
 - ___ other, please state alternative _____

Identify method of fire protection for the proposed development:

- ___ hydrants connected to the public water system
- ___ dry hydrants located on an existing pond or water body
- ___ existing fire pond
- ___ other, please state alternative. _____

Does the applicant propose to dedicate to the public any streets, recreation or common lands?

street(s) ___ Yes ___ No Estimated Length _____
recreation area(s) ___ Yes ___ No Estimated Acreage _____
common land(s) ___ Yes ___ No Estimated Acreage _____

Does the applicant intend to request waivers of any of the subdivision submission requirements?

If yes, list them and state reasons for the request.

To the best of my knowledge, all the above stated information submitted in this application is true and correct.

_____ (signature of applicant) _____ (date)

Appendix E

RECEIPT OF SUBDIVISION APPLICATION

Date _____

Name _____
Address _____

Dear _____:

The Planning Board of the Town of _____ has received your application for a _____ lot/unit subdivision at _____.

In accordance with Title 30-A M.R.S.A., §4403, sub-§3, the Board will, within 30 days, notify you in writing either that the application is a complete application, or if the application is incomplete, the specific additional material needed to make a complete application. After the Board has determined that a complete application has been filed, it will notify you and begin its full evaluation of the proposed subdivision.

Sincerely,

Chair of the Planning Board

Appendix F

MODEL NOTICE TO ABUTTERS OF RECEIPT OF APPLICATION

Date _____

Name _____
Address _____

Dear _____ :

The _____ Planning Board has received an application for a _____ lot/unit subdivision at _____.

Our records indicate that you own property abutting the parcel proposed to be subdivided. In accordance with Title 30-A M.R.S.A., §4403, sub§3, the Planning Board is required to notify you it has received this application. We have not yet determined that the application is complete and have not reviewed the application.

The application is available for your review at _____. The next scheduled meeting to discuss the application is _____.

Sincerely,

Chair of the Planning Board

Appendix G

MODEL NOTICE TO PLANNING BOARD AND CLERK OF NEIGHBORING MUNICIPALITIES

Date _____

Name _____
Address _____

Dear _____:

The _____ Planning Board has received an application for a _____ lot/unit subdivision at _____.

In accordance with Title 30-A M.R.S.A., §4403, sub§3, the Planning Board is required to notify you it has received this application, because it abuts or crosses the municipal boundary (*if the proposed subdivision crosses municipal boundaries*). Title 30-A M.R.S.A., §4403, sub§3 requires a joint meeting between the two Planning Boards. Please contact me at (*phone number*) to set up such a meeting.

The application is available for your review at _____. The next scheduled meeting of the _____ Planning Board to discuss the application is _____.

Sincerely,

Chair of Planning Board

Appendix H

NOTICE OF INCOMPLETE APPLICATION

Date _____

Name _____
Address _____

Dear _____:

The Planning Board of the Town of _____ has reviewed your application for a _____ lot/unit subdivision at _____ and found it to be incomplete.

In order to be considered a complete application the following materials must be submitted:

- a.
- b.
- c.

Sincerely,

Chair of the Planning Board

Appendix I

NOTICE OF COMPLETE APPLICATION

Date _____

Name _____
Address _____

Dear _____:

The _____ Planning Board has reviewed your application for a _____ lot/unit subdivision at _____ and found it to be complete.

The Board has scheduled a meeting for _____ (date) at _____ p.m. (time) at which time your application will be reviewed for conformance with criteria of Title 30-A M.R.S.A., §4404 and the standards of the _____ Subdivision Regulations. You or your authorized representative are encouraged to attend the meeting.

At that time the Board will determine whether to hold a public hearing.

Sincerely,

Chair of Planning Board

Appendix J

MODEL NOTICE OF PUBLIC HEARING

_____ PLANNING BOARD

The _____ Planning Board will hold a public hearing on an application for the proposed _____ subdivision, as requested by _____.

The Public Hearing will take place on _____ (date) at _____ p.m. (time), in the _____ (place).

The application for a subdivision proposes to establish _____ lots/dwellings on _____ acres on the _____ Road.

_____ Chair of the Planning Board

(for newspaper use only)

Publish the above notice on the following dates: _____

Charge to: _____

Appendix K

AGREEMENT TO EXTEND SUBDIVISION REVIEW PERIOD

_____ Planning Board

WHEREAS The State Subdivision Law, Title 30-A M.R.S.A., §4403, requires that the municipal reviewing authority approve, approve with conditions, or deny an application for subdivision review within 60 days of having determined a complete application had been submitted, or within 30 days of a public hearing if one is held; and

WHEREAS The complete subdivision application submitted by the undersigned applicant can not be adequately reviewed in the specified time period because of the complexity of the application, and would therefore have to be denied and resubmitted; and

WHEREAS It would be mutually advantageous to the undersigned parties to extend the review period; and

WHEREAS Title 30-A M.R.S.A., §4403 stipulates that the time period within which a subdivision application must be reviewed may be extended by mutual agreement;

NOW THEREFORE the undersigned parties mutually agree that:

1. The subdivision review period shall be extended to _____.
2. The decision on the subdivision shall be rendered by that date, unless the review period is again extended by mutual agreement.

Signed _____
Chair of the Planning Board

Applicant

..... Date

Appendix L

MODEL NOTICE OF APPROVAL OF PRELIMINARY PLAN APPLICATION

Date: _____

To: _____

Dear _____;

This letter is to inform you that on _____ (date) the _____ Planning Board approved your preliminary plan application for the proposed _____ subdivision.

In accordance with Section _____ of the _____ Subdivision Regulations, the Planning Board has granted approval with the following conditions:

- 1.
- 2.
- 3.

The Final Plan application must include cost estimates and proposed performance guarantees for the following improvements:

- a.
- b.
- c.

In addition, you should be aware that Section _____ of the Subdivision Regulations requires that the Final Plan application is submitted within six months of this decision.

Sincerely,

Chair of the Planning Board

cc: Code Enforcement Officer
Municipal Officers

Appendix M

MODEL NOTICE OF DECISION

Date: _____

To:
.....
.....

Dear _____:

This letter is to inform you that the _____ Planning Board has acted on your application for a subdivision as follows:

Findings of Fact

1. The owner of the property is _____.
2. The property is located at _____, in the _____ zoning district, identified as Assessor's Map _____, Lot _____, and contains _____ (acres, sq. ft.).
3. The applicant is _____, who has demonstrated a legal interest in the property by providing a copy of a _____ (deed, option, purchase and sales agreement).
4. The applicant proposes to establish a _____ lot subdivision on the subject property. The lots range in size from _____ (sq. ft., acres) to _____ (sq. ft., acres).
5. The application was determined to be complete on _____ (date).
6. A public hearing was held on _____ (date).
7. Water is to be supplied by (private wells, the _____ Water Department).
8. Sewage is to be disposed of by (individual subsurface disposal systems, the _____ Sewer District). Site evaluations for each lot, meeting the requirement of the Maine Plumbing Rules were completed by _____, Licensed Site Evaluator, on _____. (or) The _____ Sewer District has approved the plans for sewer lines and indicated it will be able to adequately treat the waste.
9. A storm water drainage plan has been prepared by _____, P.E.
10. The applicant proposes to construct a street of approximately _____ feet in length, which is proposed to (be dedicated as a public way, remain as a private way).
11. The applicant has submitted a (certified check, certificate of deposit, a performance bond, a letter of credit) adequate to cover the costs of all required improvements.
12. _____.
13. _____.

Conclusions

1. The criteria of Title 30-A M.R.S.A., §4404 have been met. **(or)** The following criteria of Title 30-A M.R.S.A., §4404 have not been met: _____, _____.
2. The standards of the Town's subdivision (*regulations, ordinance*) have been met, except for the following which have been waived by the Planning Board: _____, _____. **(or)** The following standards of the Town's subdivision (*regulations, ordinance*) have not been met: _____, _____, _____.
3. _____.
4. _____.

Decision

Based on the above facts and conclusions, on _____, the Planning Board voted to *(approve, deny)* your application for a subdivision.

(If Approved)

Conditions of Approval

In order to further promote the purposes of the State Subdivision Law, the Town's Subdivision (*Regulations, Ordinance*), Zoning Ordinance, and Comprehensive Plan, the Planning Board has voted to impose the following conditions on the approval of this subdivision:

1. _____.
2. _____.
3. _____.

In addition, the Board wants to make sure you are aware of the following requirements from its (*regulations, ordinance*):

1. Any subdivision not recorded at the _____ County 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, unless an extension is granted by the Board in writing.
2. No changes, erasures, modification, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Board and the Board approves any modifications.
3. Failure to commence substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the plan null and void.
4. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of the improvements, so that inspections can be made.
5. At the close of each summer construction season, the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures are in place, are properly installed, and appear adequate to do the job for which they were designed.
6. 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.

7. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to town meeting, a written certification signed by a professional engineer shall be submitted to the town certifying that the proposed town way meets or exceeds the design and construction requirements of the regulations and the Road and Street Ordinance. 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.

(If Denied, or if conditions imposed on approval)

In accordance with Section _____ of the _____ Subdivision (*Regulations, Ordinance*), you have the right to appeal this decision to _____ County Superior Court within thirty days of the decision.

Sincerely,

Chair of the Planning Board

cc: Code Enforcement Officer
Municipal Officers

_____ Water Department
..... Sewer District

Appendix N

PRELIMINARY PLAN APPLICATION SUBMISSION CHECKLIST

Subdivision Name _____ Date _____

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide in assembling the information necessary for a complete application. The checklist, however, does not substitute for the requirements of **Article 6** of the Subdivision Regulations (or Ordinance). The Planning Board will also use the checklist to ensure your application is complete. Indicate if the information has been submitted or if a waiver is requested. If you feel that information is not applicable to your project, please indicate in the second column. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. Detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans, however, may best be presented on a separate sheet or sheets.

Note that this checklist only covers the submission requirements for a *preliminary plan*. There is an additional checklist, Appendix O, for *final plan* submission. Neither checklist addresses the standards that the subdivision plan must meet. For review standards refer to Appendix P, which addresses the performance standards and the design guidelines of Article 10.

SUBDIVISION PLAN SUBMISSION REQUIREMENTS		Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
6.2.A	_____ # of copies of application plus accompanying information					
6.2.B.	LOCATION MAP					
B.1.	Existing subdivisions in the proximity of proposed subdivision					
B.2.	Locations and names of existing and proposed streets					
B.3.	Zoning boundaries and designations					
B.4.	Outline of proposed subdivision and owner's remaining contiguous land					
6.2.C.	PRELIMINARY PLAN					
C.	_____ # of copies of all maps and/or drawings printed or reproduced on paper					
C.	Scale not smaller than 1"= 100'; for subdivision more than 100 acres, not smaller than 1"= 200'					

Appendix N

	SUBDIVISION PLAN SUBMISSION REQUIREMENTS	Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
6.2.C.	APPLICATION REQUIREMENTS					
C.1.	Name of subdivision, name of town and assessor's map and lot number(s)					
C.2.	Verification of right, title or interest in property					
C.3.	Standard boundary survey with bearings and distances, certified by P.L.S, all corners located an marked.					
C.3	Standard boundary survey shows entire parcel or tract and all contiguous land in common ownership within the last five years per MRSA Title 30-A section 4401					
C.4.	Copy of most recently recorded deed; all restrictions, easements, rights-of-way and other encumbrances					
C.5.	Deed restrictions on proposed new lots or dwellings					
C.6.a.	Letter of capacity to serve from sewer district					
C.6.b	Map of test pits					
C.6.b.	Test pit analyses by Site Evaluator or Certified Soil Scientist					
C.7.	Type of water supply system(s)					
C.7.	Water Department letter of capacity					
C.8.	Date plan prepared, north point and graphic map scale					
C.9.	Names and addresses of record owner, applicant, plan preparer(s) and adjoining property owners					
C.10.	All wetlands delineated regardless of size					
C.11.	Total acres in subdivision; location of property lines, existing building(s), unusually large specimen trees, vegetative cover type and other essential physical features					
C.12.	All rivers, streams and brooks within and adjacent to subdivision; designation of great pond watershed					
C.13.	Zoning district of proposed subdivision and any zoning boundary lines affecting the subdivision					
C.14.	Location and size of existing and proposed sewers, water mains, culverts and drainage ways on and adjacent to subdivision					
C.15.	Location, name and widths of existing streets and high-ways					
15.	Location, name and widths of existing and proposed easements, building lines, parks and open spaces on or adjacent to subdivision					
C.16.	Location and dimensions of streets, public improvements and open space in subdivision as shown on the Official Map and the Comprehensive Plan					
C.17.	Proposed lot lines; approximate dimensions and lot areas					
C.18.	Parcels of land proposed to be dedicated to public use; condition of such dedication					
C.19.	Open space to be preserved; proposed ownership, improvements, management					
C.20.	Area of each lot permitting forest clearing and/or lawn					
C.21.	100-year flood elevations in flood prone areas					
C.22.	Areas within or adjacent to the subdivision identified by the Comprehensive Plan, MIDFW, MNAP, or BWH as areas to be preserved and appropriate preservation measures.					
C.23.	Areas within or adjacent to subdivision listed in the Comprehensive Plan or listed/eligible to be listed on National Register of Historic Places					

Appendix N

	SUBDIVISION PLAN SUBMISSION REQUIREMENTS	Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
6.2.D.	Required Submissions For Which A Waiver May Be Granted					
D.1.	High Intensity Soil Survey by a Registered Soil Scientist					
D.2.	Topographic contour lines specified by Planning Board in relation to mean sea level					
D.3.a.	Hydrogeologic assessment for subdivision not served by sewer and if any part of subdivision is over a sand and gravel aquifer, or (See D.3.b)					
D.3.b.	Hydrogeologic assessment if average density is more than one dwelling unit per 100,000 sq. ft.					
D.3.	Hydrogeologic assessment if Board determines potential adverse impacts on ground water quality					
D.4.	Vehicular trip generation rates					
D.5.	Traffic impact analysis by a registered P.E. for 28 or more parking spaces or projected to generate more than 140 vehicle trips per day to include expected ADT, peak-hour volumes, access conditions, distribution of traffic, types of vehicles expected, effect on LOS, recommended improvements					
6.2.E.	ADDITIONAL INFORMATION					
6.2.E	Planning Board may require additional information where it is determined necessary by the Board to meet criteria of the State Subdivision Statute Title 30-A M.R.S.A., §4404.					

Appendix O

FINAL PLAN APPLICATION SUBMISSION CHECKLIST

Subdivision Name _____ Date _____

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide in assembling the information necessary for a complete application. However, the checklist does not substitute for the requirements of Article 7 of the Subdivision Regulations (or Ordinance). The Planning Board will also use the checklist to ensure that your application is complete. Indicate if the information has been submitted or if it a waiver is requested. If you feel that information is not applicable to your project, please indicate in the second column. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. However, detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans may best be presented on a separate sheet or sheets.

Note that this checklist only covers the submission requirements for a *final plan*. It does not address the standards that the final plan must meet. For review standards refer to Appendix P, which addresses the performance standards and the design guidelines of Article 10.

	SUBDIVISION PLAN SUBMISSION REQUIREMENTS	Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
7.1.	PROCEDURE					
7.1.A.	Submittal of draft Final Plan within 6 months of approval of the Preliminary Plan OR submittal of request for an extension to the filing deadline					
7.1.B.	Filing of appropriate Final Plan application fee					
7.1.C.	Prior to submittal of Final Plan application, the following approvals shall be obtained where applicable: 1. Maine DEP permit(s) 2. Maine DHS permit(s) if public water system 3. Maine DHS permit(s) if engineered subsurface wastewater disposal system 4. Army Corps of Engineers if Section 404 permit required 5. Maine DOT Traffic Movement Permit and/or Highway Entrance/Driveway Access Permit The Board may require a letter from the various agencies verifying if their regulations do or do not apply					
7.1.D.	if applicable per section 6.2.C.23, confirmation that Maine Historic Preservation Office received a copy of the proposed plan and mitigation measures					
7.1.E.	Written Approval from the Town E911 Officer					
7.1.K.	Performance Guarantees requirements specified in Article 11					

Appendix O

	SUBDIVISION PLAN SUBMISSION REQUIREMENTS	Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
7.2.	SUBMISSIONS					
7.2.	One or more maps or drawings at scale of not more than 1"=100', subdivision more than 100 acres, not larger than 1"=200'					
7.2.	Plans not larger than 24" x 36" with 2" border on binding side; 1" for borders elsewhere					
7.2.	Block for Planning Board signatures					
7.2.	One reproducible, stable based transparency of the recording plan to be recorded at the Registry of Deeds, and full sized paper copies of all the final plan sheets and any supporting documents					
7.2.	FINAL PLAN INFORMATION					
7.2.A.	Final Plan Application and Submission Checklist					
7.2.B.	Name of Subdivision, Name of Town and Assessor's Map and Lot Number(s)					
7.2.C.	Total acres in subdivision; location of property lines, existing building(s), vegetative cover type and other essential physical features					
7.2.D.	Type of sewage disposal proposed					
7.2.D.	Sewer District approval of sewerage design					
7.2.E.	Type of Water Supply					
7.2.E.1.	Water District approval of water system design					
7.2.E.2.	Fire Chief letter on hydrants or other fire protection measures					
7.2.E.3.	Well driller or hydrologist letter on ground water supply and quality					
7.2.F.	Date plan prepared, north point, graphic map scale					
7.2.G.	Names and addresses of record owner, applicant, plan preparer(s) and adjoining property owners					
7.2.H.	Location of any zoning boundaries affecting the property					
7.2.I.	If different than Preliminary Plan submittal, any deed restrictions on proposed new lots or dwellings					
7.2.J.	Location and size of existing and proposed sewers, water mains, culverts and drainageways on and adjacent to proposed subdivision					
7.2.K.	Location, name and widths of existing and proposed streets, easements, building lines, parks and open spaces on or adjacent to subdivision tied to survey points and certified by a registered land surveyor					
7.2.L.	Street design plans					
7.2.M.	Location and dimensions of streets, public improvements and open space in subdivision from Official Map, Comprehensive Plan or Capital Improvements Program					
7.2.N.	Parcels proposed for dedication to public use; condition (s) of dedication; written documentation of management of subdivider-retained parcels; legal sufficiency to convey title(s) to Town					
7.2.O.	100-year flood elevations					
7.2.P.	Location and method of construction debris disposal					

Appendix O

	SUBDIVISION PLAN SUBMISSION REQUIREMENTS	Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
7.3.	SUBMISSIONS FOR WHICH A WAIVER MAY BE GRANTED					
7.3.A.	Erosion and sedimentation control plan					
7.3.B.	Storm water management plan					
7.3.C.	If the proposed subdivision is within the direct watershed of a great pond, and it does not qualify for the simplified phosphorus control review procedure for phosphorus control the following shall be submitted or indicated on the plan: <ol style="list-style-type: none"> 1. Phosphorus impact analysis and control plan 2. A long term maintenance plan 3. Contour lines no less than 5' intervals 4. Delineate areas of 25%+ slopes covering more than one acre on 					

Appendix P

SUBDIVISION PLAN REVIEW CHECKLIST

ARTICLE 10 – PERFORMANCE & DESIGN STANDARDS

SUBDIVISION NAME _____ **DATE** _____

This checklist has been prepared to assist applicants in developing their applications. It should be used as a guide. The checklist does not substitute for the statutory criteria or the requirements of Article 10 and of the Subdivision Regulations (or Ordinance). The Planning Board also will be using the checklist to make sure that your application is complete. Indicate if the information has been submitted or if a waiver is requested. If you feel that information is not applicable to your project, please indicate in the second column. The application need not contain separate plans as implied below. The perimeter survey, subdivision plan and engineering plans may be contained on the same drawing. However, detailed engineering drawings such as road profiles, drainage swales and erosion/sedimentation plans may best be presented on a separate sheet or sheets.

SUBDIVISION REGULATIONS		Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
10.1	BASIC SUBDIVISION LAYOUT					
A.	BLOCKS – In excess of 1000' any easements needed					
B.	LOTS					
B.1	Lot lines perpendicular					
B.2	Provision or preclusion of future subdivision					
B.3	Lots divided by streams					
B.4	Flag and other unusually shaped lots					
B.5	Lot numbering					
C.	UTILITIES - Underground					
D.	MONUMENTS					
D.1	Stone or precast concrete monuments at all street intersections and points of curvature, but no further than 750 feet apart along street lines					
D.2	Stone or precast concrete monuments at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.					
D.3	Stone or concrete monuments a minimum of four inches square at the top and three feet in length, and set in the ground at final grade level. After they are set, drill hole 1/2 inch deep shall locate the point or points described above.					
D.4	All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.					

SUBDIVISION REGULATIONS		Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
10.2.	SUFFICIENT WATER					
A.	WATER SUPPLY					
A.1.	Provide for future connections in public water supply service area					
A.2.	Public water system components approved by water company and fire chief					
A.3.a.	Siting and construction of individual wells to prevent surface and ground water infiltration					
A.3.a.1.	Dug wells prohibited on lots one acre and smaller					
A.3.a.2.	Wells at least 100 from a street or 50 feet if uphill					
A.3.b.	Lot configuration to allow for proper siting of well, on-site septic disposal area and reserve area					
A.3.c.	Location and protection of the source and operation of a central water supply system					
A.3.d.1.	Water storage for fire fighting capacity: pond with dry hydrant, underground storage reservoir or other method acceptable to the fire chief.					
A.3.d.2.	Storage of 10,000 gallons if not on public water plus 2,000 gallons per lot or principal building					
A.3.d.3.	Ponds proposed for water storage calculation based on the lowest water level less an equivalent of three feet of ice and access and maintenance easement of dry hydrants or reservoirs					
A.3.d.4.	Hydrants to the specifications of the fire department and easements for access to hydrants					
B.	WATER QUALITY – Meets primary drinking water standards					
10.3.	EROSION AND SEDIMENTATION AND IMPACT ON WATER BODIES					
A.	Prevention of soil erosion from entering water bodies					
B.	Erosion and sedimentation control plan					
C.	Plan for Cutting or removal of vegetation along shoreline					
D.	Topsoil removal and reapplication plan					
10.4	SEWAGE DISPOSAL					
A.	PUBLIC SYSTEM					
A.1.	Comprehensive Plan sewage designation					
A.2.	Complete collection system required					
A.3.	Sewer District capacity certification					
A.4.	Sewer District approval of collection system					
B.	PRIVATE SYSTEMS					
B.2.	Evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator					
B.2.a.	LSE certified all test pits large enough meet the Disposal Rules.					
B.2.b.	Reserve wastewater disposal area where soils are less than 24" to limiting factor					
10.5	SOLID WASTE - Approved capacity of Town solid waste system					
10.6	IMPACT ON NATURAL BEAUTY ETC.					
A.1.	Notes on the plan limiting the clearing of trees in areas designated on the plan					
A.2.	Screening of buildings from existing public roads in designated non-growth areas					
A.3.	Landscape plan preserving large specimen trees, preservation of vegetation and contours					
A.4.	Preservation of open fields and/or the planting of street trees along new roads in designated non-growth areas					

	SUBDIVISION REGULATIONS	Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
A.5.	Notes on the plan and covenants in the deed protecting ridge line identified in Comprehensive Plan					
B.1.	Reserved open space per Comprehensive Plan					
B.2.	Preservation of designated critical natural areas					
B.3.	Protection of historic or prehistoric resources					
B.4.	Reservation of open space for recreation					
B.5.	Subdivisions with an average density of more than 3du/ac has no less than fifty percent of the open space as usable open space					
B.6.	Suitability of reserved open space					
B.7.	Open space to be dedicated to the town					
B.8.	Payment in lieu of dedication of open space					
C.	Preservation of wildlife habitat					
C.1-3.	Letter from MDIFW					
C.1-3	Any Comprehensive Plan designations					
C.1-3	Report by a wildlife biologist (Board may require)					
C.1-3	Mitigation plan for avoidance of adverse impacts on designated significant wildlife habitat					
D.1.	Protection of existing public accesses to shorelines					
D.2.	Notes on the plan and in the deeds for required buffer strips and maintenance in shoreland zones					
D.3	250 feet from the normal high water line of a water body or upland edge of a wetland, cleared openings do not exceed 25% of the lot area or 10,000 square feet					
E.1.	Ownership of open space, common land and facilities					
E.2.	Limitations on common land; conservation easements					
E.3.	Final Plan notation for common land					
E.4.	Lot owner association rules and by-laws					
E.5.	Lot owner association duties and responsibilities					
10.7	CONFORMANCE WITH ZONING ORDINANCE AND OTHER LAND USE ORDINANCES.					
	Zoning Ordinance					
	Site Plan					
	Other					
10.8.	FINANCIAL AND TECHNICAL CAPACITY					
A.	Financial capacity to construct the total development					
B.	Technical ability to complete the subdivision					
10.9.	IMPACTS ON GROUND WATER					
A.	GROUNDWATER QUALITY					
A.1.	Hydrogeologic assessment per 10.9.A.1.a-f					
A.2.	Ground water quality projections					
A.3.	Contaminant concentrations in ground water					
A.4.	Ground water treatment for improvement to drinking standards					
A.5.	Control of high contaminant concentrations in ground water					
A.6.	Notes on final plan and in deeds regarding construction standards recommended in assessment to reduce contamination					
B.	GROUNDWATER QUANTITY					
B.1.	Maintenance of ground water table level					
B.2.	Maintenance of infiltration of precipitation					
10.10.	FLOODPLAIN MANAGEMENT					
A.	Public utilities located to avoid flood damage					

	SUBDIVISION REGULATIONS	Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
B.	Elevation of buildings above the flood level					
C.	Drainage to reduce flood hazards					
10.11.	IDENTIFICATION OF FRESHWATER WETLANDS - Identified using Federal Manual for Identifying and Delineating Jurisdictional Wetlands					
10.12.	STORM WATER MANAGEMENT					
A.	Storm water management plan for DEP Site Location of Development Act permit (SLDA)					
B.	Storm water management plan for DEP Chapter 500 Storm-water Permit					
C.	Storm water management plan which incorporates Low Impact Development techniques when SLDA or DEP Storm-water Law permits are not required					
D.	Storm water management plan for subdivisions within the watershed of a Great Pond which incorporates Phosphorus Design Manual, BMP, 2006					
E.	Hydrologic analysis for sites prone to flooding (Board may require)					
10.13.	CLUSTER DEVELOPMENTS					
B.	BASIC STANDARDS FOR CLUSTER DEVELOPMENTS					
B.2.	Plan depicts placement of structures, roads, paths, etc.					
B.3.	Reduction in lot size in return for common space					
B.4.	No buildings on slopes steeper than 25%, within 100' to any water body or wetland, or on soil classified as very poorly drained					
B.5.	Net residential acreage calculations					
B.6.	Minimum lot size of 20,000 s.f. with individual on-site sewage disposal.					
B.7.	Size and calculation of reserved open space					
B.8.	Reduced lots within 1,000 of open space					
B.9.	Buildings separated by at least 20 feet					
B.10.	No individual lot access onto existing streets					
B.11.	Maintain required minimum shoreland zoning frontage					
B.12.	Open space/access includes shore frontage					
B.13-14.	Ownership of common space					
10.14	COMPLIANCE WITH TIMBER HARVESTING RULES – Complies with Title 12, M.R.S.A section 8869					
10.15.	TRAFFIC CONDITIONS AND STREETS					
A.	GENERAL STANDARDS					
A.1.	Design standards that safeguard against hazards to vehicles, pedestrians, and bicyclists					
A.2.	Design standards that avoid congestion					
A.3.	Design standards that provide safe and convenient circulation					
A.4.	Design standards compatible with AADD, land use and density of the street					
A.5.	Design standards that relate to the natural setting					
B.	GENERAL ACCESS STANDARDS					
B.1	Accesses to state or state-aid highways meets MDOT rules					
B.2.	MDOT Traffic Movement Permit for accesses expected to carry more than 100 peak hour passenger vehicle equivalent trips					
B.3.	Level of Service(LOS) greater than E					
B.3.a-f.	Rationale and documentation for LOS below D					

	SUBDIVISION REGULATIONS	Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
B.4.	Analysis of accesses for non-residential and multifamily projects and the possible need for left-turn storage lane.					
C.	GENERAL INTERNAL SUBDIVISION STREET STANDARDS					
C.1	Designed to coordinate with existing, proposed, and planned streets. Where applicable, street stubs for future connections to abutting land with appropriate turn around or cul de sac					
C.2.	Where necessary: -Turning lanes -Traffic directional islands -Frontage roads -Sidewalks -Bicycle ways -Transportation demand management techniques -Traffic controls					
C.3.	Street names, signs, and lighting					
C.4.	Proposed clearing of right-of-way and indication of plan for removal and disposal of stumps and other debris					
10.15.1.	SPECIFIC ACCESS AND STREET DESIGN STANDARDS					
A.	ACCESS CONTROL					
A.1.	Subdivision accesses perpendicular to external street					
A.2.	Note on plan and in deed that no lot to have vehicular access directly on to arterial street					
A.3.	Note on plan and in deed requiring double frontage lots to have access onto street with less traffic and hazards					
A.4.	Shared access for lots with frontage onto state and state-aid highways. Maximum of two accesses					
A.5.	Subdivision access is paved					
A.6.	Sight distances (Table 10.15-1)					
A.7.	Traffic volume estimates expected for internal street					
A.8.	Basic design standards for low and medium volume accesses (Table 10.15-2)					
A.9.a-d.	Additional requirements for medium volume accesses					
A.10.	MDOT Traffic Movement Permit for high volume accesses					
B.	STREET DESIGN AND CONSTRUCTION STANDARDS					
B.1	General Requirements					
B.1.a.	Street designs are in conformance with all local ordinances					
B.1.b.	Detailed construction drawings showing plan view, profile, and cross-section at 1" = no more than 50' 1. Date, scale, north point, magnetic or true 2. Intersections with existing streets 3. Roadway and r.o.w. limits 4. Drainage structures 5. Horizontal and vertical curve data 6. Turning radii at all intersections 7. Centerline gradients 8. Vertical clearance					
B.1.c.	Copy of public street plans to municipal officers, road commissioner, municipal engineer for review					
B.1.d	Written approval by road commissioner and/or MDOT for improvements within existing public streets					
B.1.e.	Private Roads					
B.1.e.1.	Designation and signage indicating a private road					

	SUBDIVISION REGULATIONS	Submitted by Applicant	Not Applicable	Applicant Requests to be Waived	Received by Planning Board	Waived by Planning Board
B.1.e.3.	Request for a reduction in r.o.w. (minimum 30') in areas designated "Rural" per 10.15.1.B.2.f.					
B.1.e.4.	Adequate access for emergency vehicles					
B.1.e.5.	Provisions for drainage and stormwater runoff per 10.12.					
B.1.e.6.	Note on the recorded plan per 10.15.1.B.e.6					
B.1.e.7.	Road maintenance plan					
B.2.	Street Design Standards					
B.2.b.	Reserve strips prohibited					
B.2.c.	Right-of-way width for commercial zoning districts					
B.2.d.	Land reserved for required widening of existing street					
B.2.e.	Two accesses to when 200 or more trips per day					
B.2.f.	Land use density pattern of the internal subdivision street					
B.2.g.	Road design standards of Table 10.15-3					
B.2.h.	On street parking for lots between 100 and 40' wide					
B.2.i.	Curbs					
B.2.j.	Shoulders					
B.2.k.	Road centerline					
B.2.l.	Dead end streets					
B.2.m.	Sidewalks					
B.3.	Street Construction Standards					
B.3.a.	Minimum pavement material thickness (Table 10.15-4)					
B.3.b.1-5	Preparation notes on street plan					
B.3.c.1.	Bases and sub-base (Table 10.15-5)					
B.3.c.2.	Pavement joints					
B.3.c.3.	Pavements per MDOT specifications					
B.3.c.4.	Surface gravel					

Appendix Q

MAINE'S REGIONAL COUNCILS

Androscoggin Valley Council of Governments
125 Manley Road
Auburn, ME 04210
207-783-9186
FAX: 207-783-5211
Email: avcog@avcoc.org
avcoc.org
Website: www.avcog.org

Eastern Maine Development Corporation
40 Harlow Street
Bangor, ME 04401
207-942-6389
Website: www.emdc.org

Greater Portland Council of Governments
68 Marginal Way, 4th Floor
Portland, ME 04101
207-774-9891
FAX: 207-774-7149
Website: www.gpcog.org

Hancock County Planning Commission
395 State Street
Ellsworth, ME 04605
207-667-7131
FAX: 207-667-2099
Website: www.hcpc.org

Kennebec Valley Council of Governments
17 Main Street
Fairfield, ME 04937
207-453-4258
1-800-731-5019
FAX: 207-4264
Website: www.kvcog.org

Midcoast Council for Business Development &
Planning
7 Park Street
Bath, ME 04530
207-443-5790
FAX 207-443-8675
Website: www.mcbdp.org

Mid-Coast Planning Commission
166 South Main Street, Suite 201
Rockland, ME 0484
207-594-2299
FAX: 207-594-4272
Website: www.midcoastplanning.org

Northern Maine Development Commission
11 west Presque Isle
P.O. Box 779
Caribou, ME 04736
207-498-8736
1-800-427-8736
FAX: 207-493-3108
email: nmdc@nmdc.org
www.nmdc.org

Penobscot Valley Council of Governments
40 Harlow Street
Bangor, ME 04401
207-942-6389
Email: info@emdc.org

Southern Maine Regional Planning Commission
9 Bradeen Street, Suite 400
Springvale, ME 04083
207-324-2952
FAX: 207-324-2958
Website: www.smrpc.org

Washington County Council of Governments
11 Church Street, 2nd Floor
P.O. Box 631
Calais, ME 04619
207-454-0465
FAX: 207-454-2568
Website: www.wccog.net

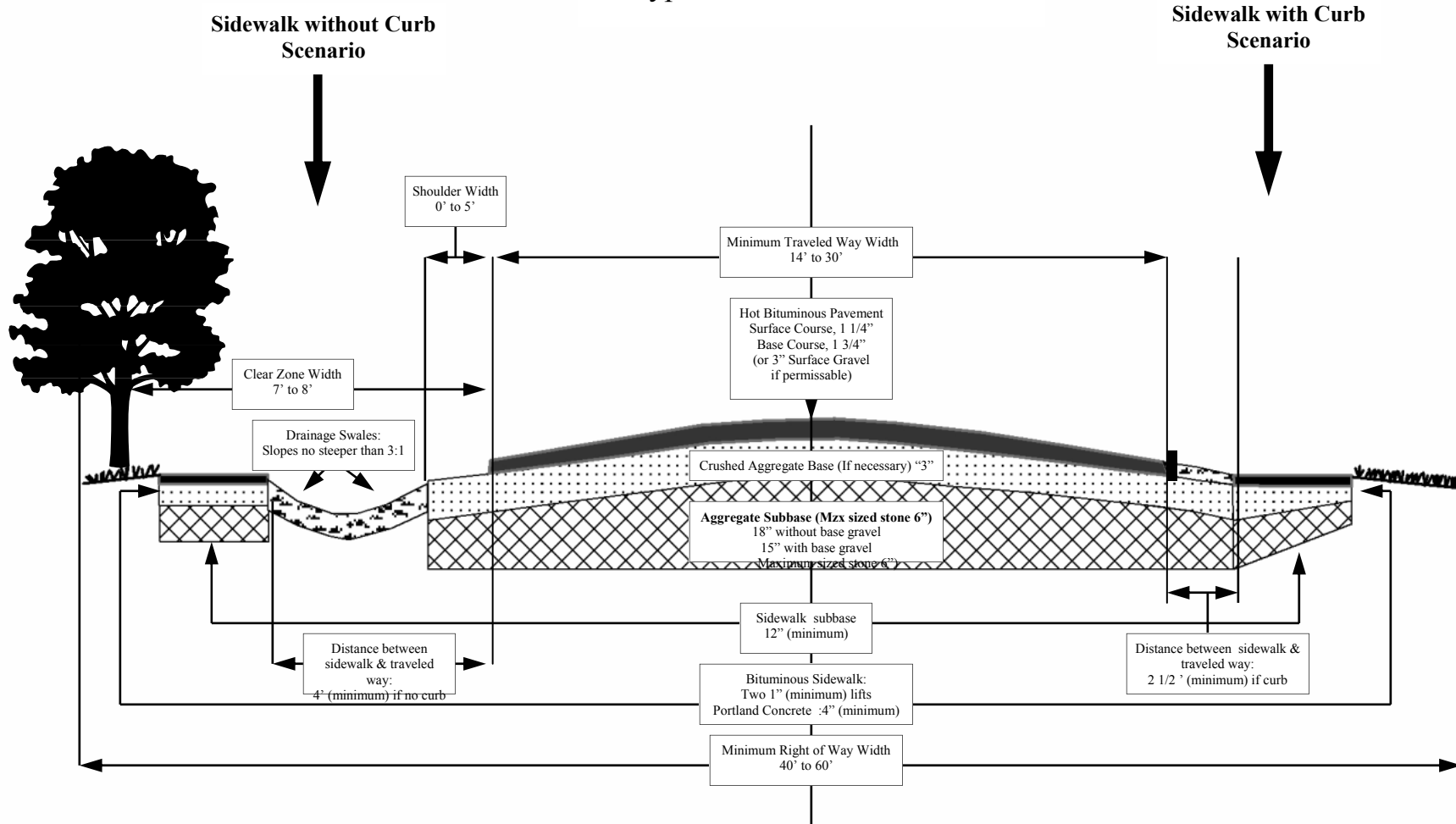
Appendix R

SOIL AND WATER CONSERVATION DISTRICTS

<p>Androscoggin/Sagadahoc SWCD 254 Goddard Road Lewiston, ME 04241 Ph: (207) 753-9400 Fax: (207)783-4104</p>	<p>Penobscot County SWCD 28 Gilman Plaza, Suite 2 Bangor, ME 04401 Ph: (207)990-3676 Fax: (207)942-1782 Web Site: www.penobscotswcd.org</p>
<p>Central Aroostook SWCD 735 Main Street, Ste. 3 Presque Isle, ME 04769 Ph: (207) 764-4153 Fax: (207)768-3407 Web Site: www.caswcd.org</p>	<p>Piscataquis County SWCD 42 Pine Crest Drive Dover-Foxcroft, ME 04426 Ph: (207) 564-2321 Fax: (207)564-2570 Web Site: www.piscataquisswcd.org</p>
<p>Cumberland County SWCD 35 Main Street Gorham, ME 04062 Ph: (207) 892-4700 Fax: (207) 892-4773 Web Site: www.cumberlandswcd.org</p>	<p>St. John Valley SWCD 139 Market Street, Suite 106 Fort Kent, ME 04743 Ph: (207) 834-3311 Fax: (207)834-6435 Web Site: www.sjv.me.nacdnnet.org</p>
<p>Franklin County SWCD 107 Park Street Farmington, ME 04938 Ph: (207) 778-4279 Fax: (207)778-5785</p>	<p>Somerset County SWCD 12 High Street Skowhegan, ME 04967 Ph: (207) 474-8324 Fax: (207)474-0638 Web Site: www.somersetswcd.org</p>
<p>Hancock County SWCD 190 Bangor Road Ellsworth, ME 04605 Ph: (207) 664-7496 Fax: (207)667-3585 Web Site: www.ellsworthme.org/soilandwater</p>	<p>Southern Aroostook SWCD 304 North Street Houlton, ME 04730 Ph: (207)532-2087 Fax: (207)532-4379 Web Site: www.saswcd.org</p>
<p>Kennebec County SWCD 9 Green Street, Room 307 Augusta, ME 04330 Ph: (207) 622-7847 Fax: (207)626-8196 Web Site: www.kcswcd.org</p>	<p>Waldo County SWCD 266 Waterville Road Belfast, ME 04915 Ph: (207) 338-1964 Fax: (207)338-4972</p>
<p>Knox-Lincoln County SWCD 191 Camden Road Warren, ME 04864 Ph: (207) 273-2005 Fax: (207)273-2228 Web Site: www.knox-lincoln.org</p>	<p>Washington County SWCD 51 Court Street PO BOX 121 Machias, ME 04654 Ph: (207) 255-4659 Fax: (207)255-6817 Web Site: www.downeastsoilwater.org</p>
<p>Oxford County SWCD 1570 Main Street, Suite 10 Oxford, ME 04270 Ph: (207) 743-5789 Fax: (207)743-6256</p>	<p>York County SWCD 8 Waterboro Road PO Box 819 Alfred, ME 04002 Ph: (207)324-7015 Fax: (207)324-4462 Web Site: www.yorkswcd.org</p>

APPENDIX S

Typical Street Cross Section



Appendix T

PLANNING BOARD RECORD OF SUBDIVISION APPLICATIONS

Name of Subdivision	Preappl. Sketch Plan	On-Site Inspect.	Letter Sent	Prelim Submitted	Fee Pd	Prelim Complete	Letter Sent	Prelim Decision	Final Submitted	Fee Pd	Final Complete	Letter Sent	Final Decision	Recorded Plan Rcvd