

Town of Bowdoinham  
Land Use Ordinance

**ARTICLE 9: SUBDIVISION**

**A) Purpose**

The purposes of this section are:

- 1) to provide for the expeditious, equitable, and efficient review of proposed subdivisions;
- 2) to establish standards for the application of the approval criteria of the State Subdivision Law, found in 30-A M.R.S.A. § 4401 et. seq.;
- 3) to ensure that development in the Town of Bowdoinham meets the goals and conforms to the policies of the adopted Comprehensive Plan;
- 4) to ensure the comfort, convenience, safety, health, and welfare of the people of the Town of Bowdoinham;
- 5) to protect the environment and conserve the natural and cultural resources identified in the adopted Comprehensive Plan as important to the community;
- 6) to ensure that an adequate level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions can support the proposed uses and structures;
- 7) to minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- 8) to promote the development of an economically sound and stable community.

**B) Administrative Procedures**

1) Review & Approval Authority

The Planning Board is authorized to review and act on all applications for subdivisions. In considering subdivisions under this section, the Planning Board may act to approve, disapprove, or approve the project with conditions as are authorized by these provisions.

2) Classification of Projects

a) The Town Planner shall classify each proposed project as:

- (i) Minor Subdivision: Any subdivision containing five or fewer lots or dwelling units.
- (ii) Major Subdivision: Any subdivision containing six or more lots or dwelling units.
- (iii) Subdivision Amendment: An application to revise an existing subdivision.

3) Fees

a) Application Fee

- (i) An application for subdivision must be accompanied by an application fee, plus all mailing and advertising costs for the processing of the application. The fee shall be non-refundable. This application fee shall be paid to the ~~municipality~~ Town. The application fees shall be as follows:

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- (A) Site Inventory and Analysis: \$100.00
- (B) Subdivision Plan: \$300.00 per lot or dwelling unit.
- (C) Amendment:
  - (1) If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units: \$150.00
  - (2) If the revision involves the creation of additional lots or dwelling units: \$150.00 per lot or dwelling unit.

b) Technical Review Fee

In addition to the application fee, the applicant shall be responsible for paying a technical review fee. The initial deposit towards the technical review fee shall be \$200 per lot or dwelling unit to cover the Town's legal and technical costs for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with regulations.

- (i) The Planning Board may reduce the amount of the technical review fee or eliminate the fee if it determines that the scale or nature of the project will require little or no outside review.
- (ii) This fee must be paid to the Town and shall be deposited into a special escrow account, which shall be separate and distinct from all other municipal accounts.
- (iii) The application will be considered incomplete until evidence of payment of this fee is submitted to the Town.
- (iv) If the balance in this special account is drawn down by 75%, the applicant shall be notified, and the applicant shall bring the balance back up to the original deposit amount. The Planning 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.
- (v) The Town shall provide the applicant with an accounting of his or her account, upon written request.
- (vi) The Town shall refund all of the remaining monies, including accrued interest, in the account after the payment by the Town of all costs and services related to the review. Such a refund shall be accompanied by a final accounting of expenditures from the fund. The money in such fund shall not be used by the Town for any enforcement purposes.

C) Application Submission Requirements

The Planning Board may waive any of the submission requirements upon a written request of the applicant. A waiver of any submission requirement may be granted only if that information is not required to determine compliance with the approval criteria. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate the statutory criteria for approval and performance standards have been or will be met.

1) Site Inventory & Analysis Requirements

**Commented [JH1]:** This section has been moved and reformatted. The text used be located after the review procedures.

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- a) The Site Inventory & Analysis submission must include the following information unless the Planning Board, by formal vote, waives the submission of specific items of information based upon a finding that the information is not needed to determine the optimal utilization of the parcel.
- b) ~~Eight (8)~~ Nine (9) copies of a Site Locus Map 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:
  - (i) existing subdivisions within one thousand (1,000) ft. of the proposed subdivision;
  - (ii) locations and names of existing streets;
  - (iii) an outline of the proposed subdivision and any remaining portion of the owner's property if the formal application will cover only a portion of the owner's entire contiguous holding; and
  - (iv) the Tax Map and Lot Number of the parcel proposed to be subdivided.
- c) ~~Eight (8)~~ Nine (9) copies of an accurate scale Site Inventory Plan of the parcel at a scale of not more than fifty (50) ft. to the inch showing the existing conditions of the area proposed to be subdivided based upon published sources and showing the following:
  - (i) the proposed name of the development, north arrow (True Meridian), date, and scale;
  - (ii) the boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines;
  - (iii) existing restrictions or easements on the site (if none, so state);
  - (iv) the general topography of the site, including an indication of those areas where the slope is likely to be greater than 20%;
  - (v) the major natural features of the site and within five hundred (500) ft. of the site, including wetlands, vernal pools, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats, scenic views or areas, significant geological features, or other important natural features;
  - (vi) a medium intensity soil survey superimposed on the subdivision plan. The Planning Board may require the submission of a high intensity soils survey with the preliminary plan if it determines that a high intensity survey is needed to evaluate the appropriate use of the property;
  - (vii) vegetative cover conditions on the property as depicted on a current aerial photo of the site;
  - (viii) the general drainage pattern of the site and adjacent areas within five hundred (500) ft. of the site;
  - (ix) existing buildings, structures, or other improvements on the site, including streets, driveways, stone walls, fences, trails, and cemeteries (if none, so state);
  - (x) locations of all culturally, historically or archaeologically significant buildings, features, or sites;

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- (xi) the location and size of existing utilities or improvements servicing the site (if none, so state);
  - (xii) any potential sources of fire protection water supply within one half mile of the site including public water mains, existing fire ponds, or possible sources of water supply; and
  - (xiii) the visual character of the site, including existing conditions along existing streets, property lines, and water bodies, and the location and nature of scenic views of the parcel and/or from the parcel that should be considered in the design of the subdivision.
- d) ~~Eight (8)~~ Nine (9) copies of a Site Analysis Map at the same scale as the inventory plans (see b above) highlighting the opportunities and constraints of the site in a bubble diagram or annotated format. This map should enable the Planning Board to determine:
- (i) which portions of the site are unsuitable for development or use (Primary Conservation Areas);
  - (ii) which areas of the site have potential conservation or open space value (Secondary Conservation Areas) that should be addressed in the subdivision plan;
  - (iii) which portions of the site are unsuitable for on-site sewage disposal;
  - (iv) which areas of the site may be subject to off-site conflicts or concerns (noise, lighting, traffic, etc.); and
  - (v) which areas are well suited for the proposed use.
- e) ~~Eight (8)~~ Nine (9) copies of a Site Analysis Narrative describing the existing conditions of the site, the constraints and opportunities created by the site, the open space conservation potential of the site, and the proposed development. This submission should include any preliminary studies done related to the site including wetland delineations, traffic studies, market studies, or other information that will help the Board understand the project.
- 2) Subdivision Plan Application Requirements
- a) The application for subdivision plan approval shall include ~~eight (8)~~ nine (9) copies of the following required information.
  - b) Application Form, including:
    - (i) the proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the assessor's map and lot numbers; and
    - (ii) an indication of the type of water supply system(s) to be used in the subdivision.
  - c) Location Map
- The location map shall be drawn at a scale of not more than five hundred (500) ft. to the inch showing the relationship of the proposed subdivision to the adjacent properties, to allow the Board to locate the subdivision within the Town. The location map shall show:
- (i) existing subdivisions within one thousand (1000) ft. of the proposed subdivision;
  - (ii) locations and names of existing and proposed streets within one thousand (1000) ft;
  - (iii) boundaries and designations of land use districts within one thousand (1000) ft; and

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(iv) 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.

d) Subdivision Plan

The Subdivision Plan shall be submitted as full-sized copies of one or more maps or drawings or more if requested by the Planning Board, which may be printed or reproduced on paper, with all dimensions shown ~~in feet or decimals of a foot.~~

~~The preliminary plan shall be drawn to a scale of not more than one hundred feet to the inch.~~ The Subdivision Plan shall be drawn to a scale of not more than one hundred (100) ft. to the inch and shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. In order to facilitate the addition of the subdivision into the municipal property records, this information shall also be made available in a format compatible with the assessor's records.

~~The preliminary plan shall have the following:~~ The Subdivision Plan shall contain the following information:

- (i) A boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. ~~The corners of the parcel on the Right of Way shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.~~
  - (A) The corners of the parcel shall be located on the ground and marked by monuments.
  - (B) The plan shall indicate the type of monument found or to be set at the corner of each proposed lot within the subdivision.
- (ii) The date the plan was prepared, north point, and graphic map scale.
- (iii) The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and adjoining property owners.
- (iv) A high intensity soil survey, if required by the Board.
- (v) All wetland areas regardless of size shall be identified on the survey by a soil scientist or other recognized professionals as determined by the Board.
- (vi) The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. ~~The location of any trees larger than 24 inches in diameter at breast height shall be noted on the plan. Any contiguous forested area with more than five trees greater than 24 inches in diameter at breast height shall be depicted as a group on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing existing vegetation.~~
  - (A) The location of any trees larger than 24 inches in diameter at breast height shall be noted on the plan. Any contiguous forested area with more than five trees greater than 24 inches in diameter at breast height shall be depicted as a group on the plan.

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(B) On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing existing vegetation.

- (vii) The area on each lot where existing forest cover will be permitted to be converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
- (viii) The location of all rivers, streams, brooks, wetlands and vernal pools within or adjacent to the proposed subdivision.
- (ix) Contour lines at one- or two-foot intervals, specified by the Board, showing elevations in relation to mean sea level.
- (x) The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- (xi) The location, names, and present widths of existing streets and highways within three hundred (300) ft. of any proposed intersection, existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. ~~The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. In order to facilitate the addition of the subdivision into the municipal property records, this information shall also be made available in a format compatible with the assessor's records.~~
- (xii) 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.
- (xiii) The location of any open space to be preserved.
- (xiv) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (xv) 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.
- (xvi) Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the comprehensive plan.
- (xvii) Areas within or adjacent to the proposed subdivision which have been designated to have a critical natural area by the Maine Natural Areas Program or within the comprehensive plan.
- (xviii) ~~A map showing the location of all test pits dug on the site shall be submitted. The location of all test pits dug on the site (this may be submitted as a separate map).~~
- (xix) The land use district, if any, in which the proposed subdivision is located and the location of any land use boundaries affecting the subdivision.

**Commented [LR2]:** Was this intended to be deleted?  
The requirement appears to include helpful practical information.

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- (xx) The proposed subdivision lot lines and lot areas as well as building envelopes and setback requirements.
- (xxi) Any area designated as a site of historic, prehistoric, or archeological importance by the Comprehensive Plan or the Maine Historic Preservation Commission together with information about the significance of the site.
- (xxii) The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of 30-A M.R.S.A. § 4404 are met.
- (xxiii) The location of disposal for land clearing and construction debris.
- (xxiv) Street plans.
  - (A) Detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and the plan view shall be at a scale of one-inch equals no more than fifty (50) ft.
  - (B) The vertical scale of the profile shall be one inch equals no more than five (5) ft.
  - (C) Street plans shall include the following information:
    - (1) date, scale, and north point, indicating magnetic or true;
    - (2) intersections of the proposed street with existing streets;
    - (3) roadway and right-of-way limits, including edge of pavement, edge of shoulder, sidewalks, and curbs;
    - (4) kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways;
    - (5) complete curve data shall be indicated for all horizontal and vertical curves;
    - (6) turning radii at all intersections;
    - (7) centerline gradients; and
    - (8) size, type and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- (xxv) The following notes as appropriate shall appear on the recorded plan:
  - (A) “The developer of the subdivision does not intend to offer the street(s) shown on this plan for acceptance by the Town Meeting as a public street(s).”
  - (B) “The Town of Bowdoinham shall not be responsible for the maintenance, repair, plowing, or similar services for the private road(s) shown on this plan.”
  - (C) “Any private road shown on this plan shall not be accepted as a public street by the Town of Bowdoinham unless approved at a duly called Town Meeting.”
- (xxvi) Conditions of Approval

The following notes shall appear on the recording plat of every plan, unless otherwise determined by the Planning Board:

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- (A) “The property shown on this plan may be developed and used only as depicted on this approved plan. All elements and features of the plan and all representations made by the applicant concerning the development and use of the property which appear in the record of the Planning Board approval are conditions of approval. No change from the conditions of approval is permitted unless an amended plan is submitted and approved under the provisions of this Ordinance governing revisions to approved plans.”
- (B) “No changes, erasures, modifications, or revisions shall be made in this final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted, and the Board approves any modifications.”
- (C) “Failure to complete a substantial start of construction of this subdivision within five years of the date of approval and signing of the plan shall render this plan null and void.”
- (D) “The applicant/developer must provide the Town with a signed and sealed letter from a professional engineer, which states that the subdivision road has been constructed to the Town’s Street Design Standards and Street Construction Standards. The Code Enforcement Officer shall not issue a building permit for a lot within the subdivision until this requirement is met.”
- (E) “The applicant/developer must adhere to the following Articles of the Land Use Ordinance: Article 9.E – Final Approval & Filing, Article 9.H – General Provisions, and Article 9.J.1 – Inspections.”

e) Supporting Documents

In addition to the Subdivision Plan, the following Supporting Documents are required, as applicable.

- (i) Verification of right, title, or interest in the property.
- (ii) ~~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.~~ A copy of the most recently recorded deed for the parcel, including a copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- (iii) When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating that there is adequate supply and pressure for the subdivision and that the district approves the plans for extensions where necessary. Where the district’s supply line is to be extended, a written statement from the fire chief, stating approval of the location of fire hydrants, if any, and a written statement from the district approving the design of the extension shall be submitted.
- (iv) 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.
- (v) A description of the proposed ownership, improvement and management of all facilities and improvements that will be privately owned and maintained including streets, open space, drainage facilities, and recreational areas or facilities including common docks

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together with drafts of community association documents if an association will be responsible for the ownership or management of any land or facilities, and a declaration of covenants, conditions, and restrictions meeting the requirements of Appendix 1.

- (vi) Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained shall be submitted. ~~If open space or other land is to be offered to the Town, subject to Town Meeting approval, written evidence that the municipal officers are satisfied with the legal conditions and documentation shall be provided.~~

(A) If open space or other land is to be offered to the Town, subject to Town Meeting approval, written evidence that the municipal officers are satisfied with the legal conditions and documentation shall be provided.

- (vii) The method of disposal for land clearing and construction debris.

- (viii) A hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when:

(A) any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or

(B) the subdivision has an average density of more than one dwelling unit per one hundred thousand (100,000) sq. ft., or

(C) site considerations or development design indicate greater potential of adverse impacts on groundwater quality, as determined by the Planning Board. 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 one hundred thousand (100,000) sq. ft. but the density of the developed portion is in excess of one dwelling unit per eighty thousand (80,000) sq. ft.; and/or proposed use of shared or common subsurface wastewater disposal systems.

- (ix) A storm water management plan, prepared by a licensed professional engineer in accordance with the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection (1995) or current edition. ~~The Board may waive submission of the storm water management plan when the proposed subdivision will not involve grading which changes drainage patterns and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.~~

(A) The Planning Board may waive submission of the storm water management plan when the proposed subdivision will not involve grading which changes drainage patterns and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

- (x) An erosion and sedimentation control plan, prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 2003.

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- (xi) If any portion of the subdivision is located within an area identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
  - (xii) If any portion of the subdivision is located within an area designated as a critical 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.
  - (xiii) Subsurface wastewater disposal systems test pit analyses, prepared by a Licensed Site Evaluator shall be provided.
  - (⊕) (xiv) An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from Trip Generation Manual, 1991 edition or current edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions. ~~The Planning Board may require a Traffic Impact Study if the proposed subdivision will generate over 100 trips per day.~~
    - (A) The Planning Board may require a Traffic Impact Study if the proposed subdivision will generate over 100 trips per day.
  - (xv) A list of infrastructure improvements with cost estimates prior to the sale of lots that will be completed by a professional experienced in preparing such information, and evidence that the applicant has financial commitments or resources to cover these costs.
  - (xvi) The applicant shall notify the Road Commissioner, the Fire Chief, in writing of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The applicant must submit copies of these written notifications to the Board. The Board shall request that the Fire Chief and Road Commissioner comment upon their ability to service the proposed subdivision and list any concerns they may have.
  - (xvii) The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of 30-A M.R.S.A. § 4404 are met.
  - (xviii) Proposed Homeowner and Association documents.
- f) Performance Guarantees
- The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Consulting Engineer, Town Manager, Municipal Officers, and/or Town Attorney.
- (i) Types of Performance Guarantees
- The applicant shall provide one of the following performance guarantees for an adequate amount 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:

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- (A) An escrow account funded by cash or a certified check payable to the Town of Bowdoinham and governed by an escrow agreement in a form reviewed by the Town Attorney and acceptable to the Town Manager.
- (B) An irrevocable letter of credit from a financial institution in a form reviewed by the Town Attorney and acceptable to the Town Manager.

(ii) Contents of Guarantee

- (A) The performance guarantee shall be based on a construction schedule, including cost estimates for each major phase of construction, taking into account inflation, and provisions for inspections of each phase of construction.
- (B) The performance guarantee instrument must specify a date after which the applicant will be in default and the Town shall have access to the funds to finish construction. The performance guarantee may, at the discretion of the Town Manager, provide for partial releases of the performance guarantee amount as specific portions of the required improvements are completed.

(iii) Escrow Account

A cash payment for the establishment of an escrow account shall be made by either a certified check payable to the Town of Bowdoinham or direct deposit into a bank account opened in the name of the Town of Bowdoinham as escrow agent. Any interest earned on the escrowed funds shall be retained by the Town for the intended purposes of the escrow account. Any accumulated, unused interest and escrow funds shall be released consistently with subsection vii ,below of this Ordinance.

(iv) Letter of Credit

An irrevocable letter of credit from a bank or other lending institution should be in the form of Appendix 2 to this Ordinance.

(v) Phasing of Development

The Board may approve plans to develop in sections. 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.

(vi) Duration of Guarantee

The performance guarantee shall remain in force for the entire period during which development of the subdivision occurs (or in the case of default, while the Town pursues its remedies for default) until the guarantee is released by the Town in accordance with subsection vii, below. If the time frame for constructing the improvements covered by the guarantee is extended, the performance guarantee shall also be extended.

(vii) Release of Guarantee

Prior to the release of any part of the performance guarantee, the Town Manager shall determine to his/her satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for

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which the release is requested. The decision of the Town Manager shall be based upon the report of an Engineer obtained by the Town Manager or other engineer retained by the Town, and any other agencies and departments who may be involved.

(viii) Default

If, upon inspection, the Town finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application or have not been completed within any time limit for completion established by the Planning Board, the inspector shall so report in writing to the Town Manager, and the applicant or builder. The Town Manager shall take any steps necessary to preserve the Town's rights.

(ix) Improvements Guarantee

Performance guarantees shall be tendered for all improvements required to meet the standards of this ordinance and for the construction of the streets, monumentation, utilities, storm water management facilities, public water systems, pedestrian and bicycle trails, landscaping in open spaces, and erosion and sedimentation control measures, all as determined by the Planning Board.

3) Additional Requirements for a Major Subdivision Plan

a) A list of construction and maintenance items, with both capital and annual operating cost estimates, prepared by a professional experienced in preparing such information, that must be financed by the municipality, or quasi-municipal districts.

(i) These lists shall include but not be limited to:

- (A) schools, busing included;
- (B) street maintenance and snow removal;
- (C) police and fire protection;
- (D) solid waste disposal;
- (E) recreation facilities;
- (F) storm water drainage; and
- (G) water supply.

4) Subdivision Amendments

a) The applicant shall submit ~~ten (10)~~ nine (9) copies of the following:

- (i) the approved plan;
- (ii) the proposed revised plan, which 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; and
- (iii) supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this ordinance and the criteria of the statute.

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**D) Application Review Procedures**

1) Pre-Application Procedures (Minor & Major Subdivisions)

a) ~~Staff Workshop~~ Pre-application Planning Meeting

Prior to submitting a formal application, the applicant or his/her representative shall schedule a pre-application ~~conference~~ planning meeting with the Town Planner and other relevant Town staff. The pre-application ~~conference~~ meeting shall be informal and informational in nature. There shall be no fee for a pre-application review, and such review shall not cause the plan or any related application to be a pending application or proceeding under 1 M.R.S.A. § 302. No decisions on the substance of the plan shall be made at the pre-application ~~conference~~ meeting.

(i) Purposes of ~~Workshop~~ the Pre-application Planning Meeting are:

- (A) to allow the Town staff to understand the nature of the proposed use and the issues involved in the proposal;
- (B) to allow the applicant to understand the development review process and required submissions;
- (C) to identify issues that need to be addressed in future submissions; and
- (D) to make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.

~~(ii) Site Inspection. The Town Planner may schedule a site inspection if deemed necessary and offer guidance on any requests for waivers and variations from the submission requirements.~~

(ii) Information required for the Pre-application Planning Meeting includes:

- (A) the proposed site, including its location, size, and general characteristics;
- (B) the nature of the proposed use and potential development;
- (C) any issues or questions about existing municipal regulations and their applicability to project; and
- (D) any requests for waivers from the submission requirements.

~~(iii) Site Visit~~

~~The Town Planner may schedule a site visit if deemed necessary and offer guidance on any requests for waivers and variations from the submission requirements.~~

b) Planning Board Workshop

The applicant may request to meet with the Planning Board to discuss the Town's requirements and procedures. If the applicant requests a meeting with the Planning Board, the Town ~~Planner~~ Planning Department Staff will schedule the item as a pre-application meeting at the next available meeting of the Planning Board. This meeting shall be informational in nature.

(i) Purposes of ~~Workshop~~ the Planning Board Workshop are:

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- (A) to allow the Planning Board to understand the nature of the proposed use and the issues involved in the proposal;
  - (B) to allow the applicant to understand the development review process and required submissions;
  - (C) to identify issues that need to be addressed in future submissions; and
  - (D) to make the applicant aware of any opportunities for coordinating the development with community policies, programs, or facilities.
- (ii) Information Required for the Planning Board Workshop includes:
- (A) the proposed site, including its location, size, and general characteristics;
  - (B) the nature of the proposed use and potential development;
  - (C) any issues or questions about existing municipal regulations and their applicability to project; and
  - (D) any requests for waivers from the submission requirements.
- c) Site Inventory & Analysis
- (i) After the ~~Staff Workshop~~ Pre-application Planning Meeting and the optional Planning Board Workshop, ~~if requested by the applicant,~~ the applicant shall submit the Site Inventory & Analysis Application to the Town ~~Planner~~ Planning Department.
  - (ii) The Site Inventory & Analysis review must be completed prior to the submission of the formal subdivision application. The Planning Board shall authorize the submission of the formal application when the Site Inventory & Analysis review is complete.
  - (iii) The Site Inventory & Analysis review procedures are intended to provide the applicant and the Planning Board with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environment. The focus of the Site Inventory & Analysis process is on the overall utilization of the parcel. It is anticipated that this analysis will result in a subdivision plan that reflects the conditions of the site; those areas most suitable for conservation and open space will be preserved, those areas most suitable for the proposed use will be utilized, while those that are not suitable for development or that present significant constraints will be avoided to the maximum extent possible.
  - (iii) The Planning Board may waive the site inventory and analysis process or reduce the information to be included in the site inventory and analysis for minor subdivisions or for amendments to approved subdivision plans if the Planning Board finds that the scale or complexity of the project or the characteristics of the site make the process or information unnecessary to understand the development opportunities and constraints of the site.
  - ~~(iv) The Site Inventory & Analysis shall be submitted at least twenty one days prior to a scheduled meeting of the Board.~~
  - ~~(v) Upon receipt of the Site Inventory & Analysis materials, the Town Planner shall review the material and determine whether all materials on the checklist have been submitted.~~
  - (v) The Site Inventory & Analysis review procedures shall be as follows:

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- (A) The Site Inventory & Analysis shall be submitted at least twenty-one (21) days prior to a scheduled meeting of the Planning Board.
- (B) Upon receipt of a Site Inventory & Analysis, the Town Planning Department Staff shall give a dated receipt to the applicant. Within seven (7) days of the receipt of a Site Inventory & Analysis submission, the Town Planning Department Staff shall review the material and make a preliminary determination on whether or not the submission is complete.
- (1) If the submission is determined to be incomplete, the Town ~~Planner~~ Planning Department Staff shall notify the applicant in writing of this finding, shall specify the additional material required to make the submission complete, shall advise the applicant that the application will not be reviewed until the additional information is submitted, and that all additional information must be submitted no later than ten (10) days prior to the meeting at which it is to be considered. These steps shall be repeated until all materials have been submitted.
- (2) ~~When the submission is determined to be complete, the Town Planner will place the item on the agenda for review by the Planning Board and distribute copies of the submission to the members of the Planning Board, Town Manager, Code Enforcement Officer, Public Works Director, and Fire Chief, and where appropriate, Harbormaster and Water District.~~ When the submission is determined to be complete by the Town Planning Department Staff, the applicant shall be notified in writing of this finding and the item placed on the agenda for review by the Planning Board. An on-site inspection will be scheduled, and copies of the submission will be distributed to the members of the Planning Board, Town Manager, Code Enforcement Officer, Public Works Director, and Fire Chief, and where appropriate, Harbormaster and Water District.
- (C) The Town Planning Department shall, at the applicant's expense, notify all abutting property owners of the pending application and the date, time, and place of the meeting at which the Planning Board will review the Site Inventory & Analysis submission.
- (D) The applicant, or applicant's duly authorized representative, shall attend the meeting of the Planning Board to present the Site Inventory & Analysis. Failure to attend the meeting to present the plan shall result in a delay in the Board's consideration of the plan until the next meeting which the applicant or representative attends.
- (E) Within forty-five (45) days of the first Planning Board meeting at which the Site Inventory & Analysis is discussed or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall complete its review of the Site Inventory & Analysis.
- (F) The Planning Board shall schedule an on-site inspection of the site to review the existing conditions, field-verify the information submitted, and investigate the development proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. A written notice for such site inspections shall be published at least once in a newspaper of general circulation in the community, and the date of the publication shall be at least seven (7) days prior to

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the site inspection. Notice shall also be sent by first-class mail to all property owners of record within five hundred (500) ft. of the parcel on which the proposed development is located.

(1) If a review is pending during a period when there is more than one foot of snow cover, the deadline by which the Planning Board shall take final action on the site inventory and analysis may be extended. This extension shall not exceed thirty (30) days after the site is clear of snow and the Board is able to conduct an on-site inspection.

(G) The Planning Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used, areas that are appropriate for conservation areas, and areas that are appropriate for development. The Planning Board shall also consider any input received from members of the staff or public. The outcome of the review process is the identification by the Planning Board of the issues and constraints that must be addressed in the formal subdivision application. ~~Review of the Site Inventory and Analysis will be considered complete upon a finding by the Planning Board that the appropriate areas have been determined for development and for conservation or open space.~~

(H) Review of the Site Inventory & Analysis will be considered complete upon a finding by the Planning Board that the appropriate areas have been determined for development and for conservation or open space.

d) Rights not Vested

The Pre-application Planning Meeting with the Town Planner and other relevant Town staff, the submittal or review of ~~the sketch plan preliminary materials~~ or Site Inventory & Analysis, 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 1 M.R.S.A. § 302.

2) Subdivision Plan Application Procedures (Minor & Major Subdivisions)

The Planning Board may require, where it deems necessary to make a determination regarding the criteria for approval from 30-A M.R.S.A. § 4404, or the standards from Section 1-811 of this ordinance, ~~that a Minor Subdivision application comply with some or all of the submission requirements for a Major Subdivision application.~~

- a) A formal Subdivision Plan application will not be received until the review of the Site Inventory & Analysis is completed.
- b) The subdivision plan application shall be submitted at least twenty-one days prior to a scheduled meeting of the Board. complete application form, evidence of payment of the required fees, and the required plans and related information must be submitted to the Town Planning Department Staff at least twenty-one (21) days prior to the Planning Board meeting at which it is to be considered.
- c) The applicant, or applicant's duly authorized representative, shall attend the meeting of the Planning Board to present the subdivision plan. Failure to attend the meeting to present the plan shall result in a delay in the Board's consideration of the plan until the next meeting which the applicant or representative attends.

**Commented [JH3]:** I still don't know what this means

**Commented [LR3R2]:** It is probably intended to mean what is currently Article 10, sections (F)(1) through (22), as they track (at least in part) the statutory review criteria included in 30-A MRS § 4404

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- d) When an application for Subdivision Plan approval of a subdivision is submitted, the Town ~~Planner~~ Planning Department Staff shall:
- (i) date stamp the application;
  - (ii) notify by first-class mail, abutting property owners that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project;
  - (iii) notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary; and
  - (iv) notify the Planning Board, Town Manager, Code Enforcement Officer, Public Works Director, and Fire Chief, and where appropriate, Harbormaster and Water District of the pending application.
- (e) Within seven (7) days of the receipt of a formal subdivision plan application, the Town Planning Department Staff shall review the material and make a preliminary determination on whether or not the submission is complete.
- (i) ~~If the application is determined to be incomplete, the applicant shall be notified in writing of this finding, which shall specify the additional materials required to make the application complete, shall advise the applicant that the application will not be reviewed until the additional information is submitted, and all additional information must be submitted no later ten (10) days prior to the meeting at which it is to be considered. If the application is determined to be incomplete, a member of the Town Planning Department Staff shall notify the applicant in writing of this finding. The notice shall specify the additional materials required to make the application complete, shall advise the applicant that the application will not be reviewed until the additional information is submitted, and state that all additional information must be submitted no later ten (10) days prior to the Planning Board meeting at which it is to be considered. Failure to submit the additional information within six (6) months shall be deemed an abandonment of the application.~~
  - (ii) ~~When the submission is as soon as the application is determined to be preliminarily complete, the Town Planner will place the item on the agenda for review by the Planning Board and distribute copies of the submission to the members of the Planning Board, Town Manager, Code Enforcement Officer, Public Works Director, and Fire Chief, and where appropriate, Harbormaster and Water District. the applicant shall be notified in writing of this finding. Town Planning Department Staff will place the item on the agenda for review by the Planning Board and distribute copies of the submission to the members of the Planning Board, Town Manager, Code Enforcement Officer, Public Works Director, and Fire Chief, and where appropriate, Harbormaster and Water District.~~
- (f) Within thirty (30) days of the receipt of a preliminarily complete subdivision application, the Planning Board shall review the material and determine whether or not the submission is complete. If the application is determined to be incomplete, the Planning Board shall notify the applicant in writing of this finding, shall specify the additional materials required to make the application complete, and shall advise the applicant that the application will not be considered by the Planning Board until the additional information is submitted. These steps,

**Commented [JH4]:** SPR has a different notification requirement. Specifically, the following is included in SPR:

Select Board, Town Manager, Fire Chief, Road Commissioner, Public Works Director, Solid Waste Manager, Recreation Director, Community & Economic Development Director and the Code Enforcement Officer.

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except for the notification requirements, shall be repeated until the application is found to be complete.

- (g) ~~Upon determination that a complete application has been submitted for review, the Board shall determine whether to hold a public hearing on the subdivision plan application. After the Planning Board has determined that a complete application has been filed, it shall begin its substantive review of the proposed subdivision plan application within thirty (30) days of this finding and shall decide whether to hold a public hearing on the subdivision plan application.~~
- (i) ~~If the Planning Board decides to hold a public hearing, it shall hold the hearing within thirty (30) 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 Town at least once, the date of the first publication to be at least seven (7) days prior to the hearing. A copy of the notice shall be mailed by the Town to the property owners within five hundred (500) ft. of the parcel on which the proposed development is located.~~
- (h) ~~The Planning Board may hold an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the subdivision proposal. The Board may schedule this visit either before or after the first meeting at which the application is considered. Written notice of the on-site inspection shall be provided to all parties entitled to notice under subsection (e.ii.) above. The Board may decide not to hold an on-site inspection when the site is covered in snow.~~
- (i) ~~If a review is pending during a period when there is more than one foot of snow cover, the deadline by which the Planning Board shall take final action may be extended. This extension shall not exceed thirty (30) days after the site is clear of snow and the Board is able to conduct an on-site inspection.~~
- (vi) ~~Prior to approving the subdivision application, the following approvals shall be obtained in writing, where applicable:~~
- (A) ~~Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a wastewater discharge license is needed.~~
- (B) ~~Maine Department of Human Services, if the applicant proposes to provide a common water system for the lots in the subdivision or if an engineered subsurface wastewater disposal system(s) is to be utilized.~~
- (C) ~~U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.~~
- (vii) ~~Before the Board grants approval of the subdivision plan, the applicant shall meet the performance guarantee requirements.~~
- (i) ~~Within sixty (60) days from the public hearing or within one-hundred twenty (120) days of determining that an application is complete, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Planning Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in 30-A M.R.S.A. § 4404 and the standards of this ordinance. If the Board finds that all the criteria of the statute and the standards of this ordinance 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 this ordinance have not been met, the Board shall either deny the application or approve the~~

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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.

3) Subdivision Amendments

- a) ~~If the revision involves the creation of additional lots or dwelling units; and the applicant is the developer, or the subdivision is less than five years old:~~
  - ~~(i) the procedures for preliminary plan approval shall be followed;~~
  - ~~(ii) the scope of review shall be the entire subdivision.~~
- b) ~~If the revision involves the creation of additional lots or dwelling units and the applicant is the purchaser of one of the lots within the subdivision:~~
  - ~~(i) then the procedures for preliminary plan approval shall be followed;~~
  - ~~(ii) the scope of review shall be the lots or dwelling units that the application is for and subdivision's infrastructure (i.e. road, utilities, fire protection);~~
  - ~~(iii) the lot sizes, density, open space, and any restrictions applicable to the original subdivision still apply.~~
- a) If the revision involves the creation of additional lots or dwelling unit, and
  - (i) if the applicant is the developer, or the subdivision is less than five years old:
    - (A) the procedures for preliminary plan approval shall be followed; and
    - (B) the scope of review shall be the entire subdivision.
  - (ii) if the applicant is the purchaser of one of the lots within the subdivision:
    - (A) the procedures for preliminary plan approval shall be followed;
    - (B) the scope of review shall be the lots or dwelling units that the application is for and subdivision's infrastructure (i.e. road, utilities, fire protection); and
    - (C) the lot sizes, density, open space, and any restrictions applicable to the original subdivision still apply.
- b) If the revision involves a modification of the approved plan (such as relocation of rights-of-way, changes of grade by more than 1%, etc.), without the creation of additional lots or dwelling units:
  - (i) the Code Enforcement Officer shall notify the Planning Board of the proposed change and the reason for the change.
    - (A) If no Planning Board member objects to the proposed change within seven days, the Code Enforcement Officer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board within five days.
    - (B) If any member of the Planning Board objects to the change, a formal plan amendment must be submitted for Planning Board consideration as stated in subsection a, above.
  - (ii) ~~The Code Enforcement Officer may approve the modifications of a property line, if the proposed lots will meet the standards in Article 5 of this Ordinance. The Code Enforcement Officer may approve modifications to an existing property line without~~

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notifying the Planning Board, provided that the modified lots meet the standards in Article 5 of this Ordinance.

- c) The applicant shall record the approved amended subdivision plan at the Sagadahoc County registry of deeds and shall submit a copy of the recorded plan to the Town.

**E) Approval Criteria**

The Planning Board shall consider both these approval criteria and the criteria established by 30-A M.R.S.A. § 4404 in the review of a subdivision and find that the proposal meets these criteria. The application shall be approved unless it is determined that the applicant has failed to meet one or more of these standards. In all instances, the burden of proof shall be on the applicant to produce sufficient evidence to warrant a finding that all applicable criteria have been met.

1) Vehicular Access

The proposed road design will provide for safe access to and egress from public and private roads.

2) 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 a urban compact municipality as defined by 23 M.R.S.A. § 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to 23 M.R.S.A. § 704 and any rules adopted under that section.

3) Visual Impact

The proposed development will not have an adverse effect on the scenic or natural beauty of the area, including water views and scenic views.

4) Utilities

The proposed development will not impose an unreasonable burden on existing utilities.

5) Water Supply

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

6) Sewage Disposal

The proposed development will be provided with adequate sewage waste disposal.

7) Fire Protection

The proposed development will have adequate fire protection.

8) Capacity of Applicant

The applicant meets the following criteria:

- a) Right, Title and Interest in Property: The applicant has the right, title and interest in the property.

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- b) Financial Capacity: The applicant has the financial capacity to complete the proposed development.
  - c) Technical Ability: The applicant has the technical ability to carry out the proposed development.
- 9) Special Resources
- a) Shoreland: The proposed subdivision will not adversely affect the quality of the water body or unreasonably affect the shoreline of the water body and is in compliance with the Shoreland Zoning provisions of this Ordinance.
  - b) Floodplain: The proposed subdivision is in compliance with the Floodplain Management provisions of this Ordinance.
  - c) Wetlands & Waterbodies: The proposed subdivision will not have an undue adverse impact on wetlands and/or waterbodies, to the extent that is practicable.
  - d) Historic & Archaeological: The proposed subdivision will not have an undue adverse effect on historic and/or archaeological sites.
  - e) Groundwater: The proposed subdivision will not adversely affect the quality or quantity of groundwater.
  - f) Wildlife Habitat: The proposed subdivision will not have an undue adverse effect on wildlife habitat.
  - g) Natural Areas: The proposed subdivision will not have an undue adverse effect on rare and irreplaceable natural areas.
  - h) Open Space: The proposed subdivision includes reserved Open Space that adequately meets the requirements of the district.
- 10) Environmental Impact
- The landscape will be preserved in its natural state to the extent that is practical by minimizing tree removal, disturbance of soil and retaining existing vegetation.
- 11) Solid Waste Management
- The proposed development will provide for adequate disposal of solid wastes.
- 12) Hazardous, Special, & Radioactive Materials
- The proposed development will handle, store, and use all materials identified as hazardous, special or radioactive in accordance with the standards of Federal and State agencies.
- 13) Air Quality
- The proposed development will not result in undue air pollution or odors.
- 14) Water Quality
- The proposed development will not result in water pollution.
- 15) Stormwater
- The proposed subdivision will provide for adequate stormwater management.

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16) Sedimentation & Erosion Control

The proposed subdivision will take adequate measures to prevent soil erosion and the sedimentation of watercourses and waterbodies.

17) Compliance with Ordinances

The proposed subdivision conforms with the provisions of this Land Use Ordinance and other ordinances and regulations of the Town of Bowdoinham.

18) Town Plans & Vision Statements

The proposed subdivision is consistent with the intent of the Town's Plans, including but not limited to the Comprehensive Plan, Waterfront Plan, and Transportation Vision Statement.

19) Municipal Services

The development will not have an unreasonable adverse impact on municipal services, including municipal road systems, fire department, solid waste program, schools, open spaces, recreational programs and facilities, and other municipal services and facilities.

20) Impact of 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.

21) Spaghetti-lots

Any lots in the proposed subdivision which have shore frontage on a river, stream, brook or coastal wetland shall have a lot depth to shore frontage ratio less than or equal to 5 to 1.

22) Liquidation Harvesting

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to M.S.R.A 12 § 8869(14).

**F) Final Approval and Filing**

- 1) All approved applications are conditional upon receiving all permits needed for the project by other agencies in writing, including, but not limited to the following, as applicable:
  - a) Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a wastewater discharge license is needed.
  - b) Maine Department of Human Services, if the applicant proposes to provide a common water system for the lots in the subdivision or if an engineered subsurface wastewater disposal system(s) is to be utilized.
  - c) U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- 2) Upon findings of fact and determination that all standards in 30-A M.R.S.A. § 4404, and this ordinance have been met, and upon voting to approve the subdivision, the Planning Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

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- 3) Recording plat. The Board shall sign one mylar and two paper originals of the final plan. One of the signed paper originals shall be retained by the Board as part of its permanent records. The applicant shall be responsible for recording the signed final plan in the Registry of Deeds. Any subdivision plan 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. Once the final plan is recorded at the Registry of Deeds the applicant shall submit a paper copy of the recorded plan to the Town for the Town's permanent records.
- 4) At the time the Planning Board grants final plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the plan. If any municipal, quasi-municipal department head, or superintendent of schools 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 Town'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.
- 5) No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 9.H. The Board shall make findings that the revised plan meets the criteria of 30-A M.R.S.A. § 4404, and the standards of these regulations and this ordinance. 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.
- 6) The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the Town, approval of the plan shall not constitute an acceptance by the Town of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- 7) Failure to accomplish a substantial start 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.

**G) Performance Standards & Design Standards**

The performance standards in this article are intended to clarify and expand upon the approval criteria. Compliance with the performance standards of this section shall be considered to be evidence of meeting the appropriate approval criteria. The Planning Board may waive any of the general performance standards based upon a written request of the applicant. A waiver of any general

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performance standard may be granted only if the Board finds that the standard is not required for the proposed project to be in compliance with the approval criteria.

Compliance with the design standards of this section shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design standards may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standards.

In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate the statutory criteria for approval and performance standards have been or will be met.

1) Vehicular Access

a) Performance Standards

- (i) At a minimum, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
  - (A) safeguard against hazards to traffic and pedestrians on existing streets and within the subdivision;
  - (B) provide safe and convenient circulation on adjacent public streets and within the subdivision; and
  - (C) minimize the number of new points of vehicle access onto the existing public road system.
- (ii) More specifically, access and circulation shall also conform to the following standards:
  - (A) Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycle ways, and traffic controls within existing public streets consistent with accepted highway design standards.
  - (B) Access ways to subdivisions shall be designed to avoid queuing of entering vehicles on any street. Left-lane storage capacity may be provided as needed to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane may be done.
  - (C) Where site conditions allow, provision shall be made for the extension of streets to connect with nearby streets and to provide access to adjoining lots of similar existing or potential use. Such interconnected streets shall be designed to discourage use by through traffic.
- (iii) Streets shall be named in accordance with the ~~Road Addressing Ordinance~~ E-911 System. The developer shall either install street name, traffic safety, and control signs meeting Town specifications or reimburse the Town for the costs of their installation. Street lighting shall be installed by the developer as approved by the Board.
- (iv) Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded and identified on the plan.

b) Design Standards

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(i) Standards for the Layout of Lots and Streets

- (A) The layout of the lots and streets within the subdivision shall minimize the number of points of vehicular access onto existing public streets.
- (B) The subdivision shall be laid out so that lots have their vehicular access from internal streets within the subdivision and shall not have direct vehicular access to or from existing public streets unless the size or shape of the parcel being subdivided or site or natural constraints such as wetlands or slopes do not reasonably accommodate a layout that allows access from an internal street or the site inventory and analysis demonstrates that the best utilization of the parcel will require the creation of lots fronting on existing public streets.
- (C) If lots are created that have direct vehicle access to or from an existing public street, the number of access points shall be minimized through the use of shared driveways or common access ways.
- (D) If shared driveways or common access ways are utilized, the final subdivision plan must contain a note on the final plan limiting vehicle access to these lots to the shared or common access.

(ii) Access Control

Where a lot has frontage on two (2) or more streets, access to the lot shall be provided 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 for the affected lot.

(iii) Sight Distances

Streets and other accesses shall be located and designed in profile and grading to provide adequate sight distance measured in each direction.

- (A) Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten (10) ft. behind the curb line or edge of shoulder, with the height of the eye 3.5 ft., to the top of an object 4.25 ft. above the pavement.
- (B) A minimum sight distance of ten (10) ft. for each mile per hour of the posted speed limit shall be provided. The Planning Board may require a more or less stringent standard for sight distances depending on the condition of the road, the volume of traffic on a road or other circumstances unique to the property. A more or less stringent standard may be allowed or required only if recommended by a traffic engineer.

(iv) Vertical Alignment

Accesses shall be designed to prevent surface water from draining across the intersection. Accesses shall slope upward or downward from the gutter line at a maximum slope of three percent (3%) for at least seventy-five (75) ft. The maximum grade over the entire length shall not exceed ten percent (10%), except where the Planning Board grants a waiver up to twelve percent (12%). Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage.

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(v) Access Layout and Design

The layout and design of the intersection of a proposed street or other access with an existing or proposed public street shall be appropriate for the anticipated use and traffic volume. Any access with a peak hour traffic volume of more than fifty (50) passenger car equivalent trips shall be designed based on a site-specific traffic analysis prepared by a traffic engineer.

(vi) Minimum Corner Clearance

Corner clearance shall be measured from the point of tangency of the corner to the point of tangency of the access. Unsignalized intersections shall provide fifty (50) ft. of corner clearance; signalized intersections shall provide one hundred and fifty (150) ft. of corner clearance.

(vii) Access Spacing

Accesses and street intersections shall be separated from adjacent accesses or streets, by at least one hundred fifty (150) ft. from other residential access and street intersections, and two hundred (200) ft. from other commercial accesses and streets. All access and street intersections shall be at least ten (10) ft. from a property line.

(viii) Curb Requirements

All accesses entering a curbed street shall be curbed with materials matching the street curbing to a point recommended by the Bowdoinham Road Commissioner. Sloped curbing is required around all raised channelization islands or medians.

(ix) Reserve strips controlling access to streets shall be prohibited except where their control is placed with the ~~municipality~~ Town.

(x) Where a subdivision borders an existing narrow street (not meeting the right-of-way width requirements of the standards for streets in this ordinance), 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 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.

(xi) Any subdivision containing more than fifteen (15) dwelling units or lots shall have at least two (2) street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.

(xii) The centerline of the roadway shall be the centerline of the right-of-way.

(xiii) Where street lengths exceed one thousand (1,000) ft. between intersections with other streets, the Board may require a utility/pedestrian easement, at least twenty (20) ft. in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five (5) ft. in width, constructed in accordance with design standards in this section. Maintenance obligations of the easement shall be included in the written description of the easement.

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(xiv) Dead-End Streets

- (A) Dead-end streets shall be constructed to provide a cul-de-sac turnaround or other turnaround approved by the Road Commissioner and the Fire Chief.
- (B) The turnaround shall be designed to accommodate the largest vehicle that may use the roadway, including but not limited to school buses and emergency vehicles.
- (C) The Board may also require the reservation of a fifty-foot easement in line with the street to provide continuation of the road where future subdivision is possible.
- (D) If a hammerhead or T-turnaround is approved, no driveways shall enter onto the turnaround and each leg will measure fifty (50) ft.
- (E) A dead-end street shall be limited to a maximum of fifteen (15) dwelling units (not including corner lots that gain their access from another street).
- (F) The length of a dead-end shall not exceed one thousand five hundred (1,500) ft.

(xv) Sidewalks

- (A) Sidewalks are required if connection to an existing sidewalk is feasible.
- (B) Sidewalks are required for streets carrying more than one hundred fifty (150) trips a day or to a distance within the subdivision as deemed appropriate by the Planning Board.
- (C) The Planning Board may permit sidewalks on one side of the street or may waive the requirement for sidewalks if the Board finds that there are adequate alternative provisions for pedestrians outside of the roadway or the right-of-way or that the scale of the project makes sidewalks unnecessary on one or both sides.

(xvi) Curbs shall be installed wherever needed to control storm water drainage or vehicle movement. The specified traveled way width shall be measured between the curbs.

(xvii) The Street Design Standards are as follows:

<b>Street Design Standards</b>		
<u>Description:</u>	<u>Minor Subdivision</u>	<u>Major Subdivision<sup>1</sup></u>
Minimum Right-of-Way Width	50 ft.	50 ft.
Minimum Traveled Way (Pavement)	18 ft.	22 ft.
Sidewalk Width	NA	5 ft.
Minimum Grade	1%	2%
Maximum Grade <sup>2</sup>	10%	10%
Minimum Centerline Radius	100 ft.	150 ft.
Minimum Tangent between Reverse Curves	75 ft.	100 ft.
Roadway Crown	1/4"/ft.	1/4"/ft.

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Minimum Shoulder Width	2 ft.	3 ft.
Minimum angle of street intersections	60	60
Maximum grade at intersection	3% for 75'	3% for 100'
Minimum curb radii at intersections	15 ft.	20 ft.
Minimum ROW radii at intersections	10 ft.	25 ft.
Aggregate Subbase Course	12"	15"
Crushed Aggregate Base Course <sup>3</sup>	3"	4"
Hot Bituminous Pavement Base Course (a) <sup>3</sup>	2"	2"
Hot Bituminous Pavement Surface Course (b) <sup>3</sup>	1"	1"
Bituminous Sidewalks	NA	2"

<sup>1</sup>The road shall be constructed to the standards for a Major Subdivision where the road serves 6 or more dwelling units. The road standards may be reduced to the Minor Subdivision standards where the road only serves 5 or less dwelling units.

<sup>2</sup>The maximum grade be may increased up to 12% for a distance of 150 ft. or less with a waiver from the Planning Board.

<sup>3</sup>If the Planning Board waives the requirement for the road to be paved, then the requirement for crushed aggregate base shall be increased by 4 inches.

(xviii) Street Construction Standards

(A) The minimum thickness of material after reaching ninety-five percent (95%) of modified Proctor maximum density shall meet the specifications below.

<b>Minimum Pavement Materials Thicknesses</b>		
	Minor Subdivision	Major Subdivision
Aggregate Subbase Course (Max. sized stone 6")	12"	15"
Crushed Aggregate Base Course <sup>1</sup>	3"	4"
Hot Bituminous Pavement <sup>1</sup>		
Total Thickness	3"	3"
Surface Course	1"	1"
(MeDOT 403.210 Superpave		
Mix 3/8" [9.5mm])		

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Base Course	2"	2"
(MeDOT 403.207 Superpave		
Mix 3/4" [19mm])*		

<sup>1</sup> If the Planning Board waives the requirement for the road to be paved, then this requirement for crushed aggregate base shall be increased by 4 inches.

(B) Bases and Pavement

- (1) 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 (3") square mesh sieve shall meet the grading requirements below.

<b>Aggregate Subbase Grading Requirements</b>	
Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
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	

- (2) An Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch (3") square mesh sieve shall meet the grading requirements of below.

<b>Base Course Grading Requirements</b>	
Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/2 inch	45-70%
1/4 inch	30-55%
No. 50	0-20%

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No. 200 Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension	0-5%
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(3) Pavement Joints. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line to form a neat, even, vertical joint.

(4) 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 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.

c) Standards for Public Streets

Any street within the subdivision that is proposed for acceptance as a public street by the Town shall conform to the following standards:

(i) Designation as Potential Public Streets

All submissions must clearly indicate if any streets within the subdivision are being proposed as potential public streets. The final plan must clearly indicate which streets or portions of streets are potential public streets. The final plan shall include a note similar to the following:

(A) "Street is proposed to be a public street and will be offered to the Town for acceptance by Town Meeting as a public street. Until \_\_\_\_\_ Street is accepted by the Town as a public street or the ownership of the street has been transferred to a homeowners' association, (applicant) will be responsible for the maintenance of the street. The Town of Bowdoinham shall not be responsible for any maintenance of \_\_\_\_\_ Street until, and unless, it is accepted by the Town as a public street."

(ii) Design and Construction Standards

A proposed public street must conform to the design and construction standards for a private street as set forth in Article 9.G.1.b except as follows:

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- (A) The minimum traveled way (pavement) width set out in Article 9.G.1.b.xvii, Street Design Standards, shall be increased to twenty (20) ft. for proposed public streets in a minor subdivision and to twenty-four (24) ft. for proposed public streets in a major subdivision.
- (B) The total thickness of the bituminous pavement for minor subdivision roads and all other roads as set out in Article 9.G.1.b.xvii, Minimum Pavement Materials Thickness, shall be increased to four inches (4"). The thickness of the base course shall be increased to 2.5" and the thickness of the pavement course increased to 1.5".
- (C) If the applicant requests a waiver of the bituminous pavement requirement, then the Planning Board shall consult the Road Commissioner in determining whether or not the waiver should be granted. The Road Commissioner shall give the reasons for his/her decision in writing. The Planning Board shall not grant the waiver without receiving the support of the Road Commissioner in writing.

d) Maintenance Guarantee

- (i) Prior to the release of the approved subdivision plan to the applicant by the Town, the applicant shall provide the Town Manager with documentation that a maintenance guarantee escrow account has been established to assure the maintenance of any proposed streets by the applicant until the streets are turned over to a homeowners' association or accepted as a public street. The escrow account is intended to assure that appropriate summer and winter maintenance will be done by the applicant until they are deeded to the association or the Town, or to provide funds for the Town to do the maintenance if the applicant does not.
- (ii) The escrow account shall be established in accordance with Article 9.C.2.f.iii and approved by the Town Manager with the advice of the Road Commissioner. The account shall provide that the applicant may withdraw funds from the account only with the written approval of the Town Manager and only to pay for prior expenditures related to the maintenance of the streets. The escrow account shall also allow the Town to withdraw funds from the account to pay for maintenance done by the Town after failure by the applicant to meet his obligation to maintain the road.
- (iii) ~~If the applicant fails to maintain the private street, the Town may provide the same level of summer and winter maintenance that it provides to public streets upon twenty-four (24) hours written notice to the applicant and may withdraw funds from the escrow account to cover its costs for labor, equipment, and materials to provide the maintenance. If the streets have not been accepted by the Town as a public street, have not been conveyed to a homeowner's association, and the applicant fails to maintain the streets, the Town may provide the same level of summer and winter maintenance that it provides to public streets upon twenty-four (24) hours written notice to the applicant and may withdraw funds from the escrow account to cover its costs for labor, equipment, and materials to provide the maintenance. If the Town uses this cost recovery provision, it shall provide the applicant with a written account of the work performed, costs, and withdrawals from the escrow account.~~
- (iv) The escrow account shall remain in effect until the proposed street is either accepted by the Town as a public street or turned over to a homeowners' association that will be responsible for its maintenance. The transfer of ownership and the maintenance

**Commented [LR5]:** I think this provision should be removed in its entirety. Maine law is clear that public funds should not be used to maintain private roads (unless there is a public easement in said roads, in which case the town meeting can approve use of said funds).

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responsibility to the homeowners must be approved by the Planning Board prior to the release of the escrow account. Any balance remaining in the account when the street is accepted or turned over to the homeowners shall be refunded to the applicant.

- (v) The amount of the initial escrow account shall be the estimated cost of providing winter and summer maintenance for the proposed street for a period of three (3) years if it is located in a major subdivision or two (2) years if located in a minor subdivision. The amount of the account must be approved in writing by the Town Manager with the advice of the Road Commissioner.
- (vi) If the applicant makes an offer of dedication of the public streets to the Town and the Town Meeting does not approve the acceptance of the streets or if the applicant does not make an offer of dedication within five years, the applicant must establish a homeowners association if one does not exist and must turn over the ownership and maintenance responsibility to the association within ninety (90) days of the Town Meeting's action or the expiration of the five (5) years.

2) 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 a urban compact municipality as defined by M.R.S.A. 23 § 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to M.S.R.A. 23 § 704 and any rules adopted under that section.

a) Performance Standards

- (i) The street providing access to the subdivision and neighboring streets and the first intersection(s), or an intersection within two thousand (2,000) ft. of the street providing access to the subdivision, whichever is less, 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. Intersections on major access routes to the site which are functioning at a Level of Service C or better prior to the development will function at a minimum of Level of Service C after development. If any intersection is functioning at a Level of Service D or lower prior to the development, the project will not reduce the current level of service.

The Planning Board may approve a subdivision not meeting this requirement if the applicant demonstrates that:

- (A) a public agency has committed funds to construct improvements necessary to bring or maintain the level of service at this standard, or
- (B) the applicant will assume financial responsibility for the improvements necessary to maintain or bring the level of service to the applicable standard and will assure the completion of the improvements with a financial guarantee acceptable to the Town.

3) Visual Impact

a) Performance Standards

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- (i) When the proposed subdivision is located on a hillside that is visible from a public street, water body, or public facility, the subdivision must be designed so that it fits harmoniously into the visual environment when viewed by the public from public areas.
  - (ii) In predominantly natural environments, site clearing must be minimized, and vegetation must be retained or provided to minimize the visual intrusion of the development.
  - (iii) The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
  - (iv) When a proposed subdivision is located within a scenic viewshed, the subdivision must be designed to minimize the encroachment of all buildings, structures, landscaping, and other site features on the scenic view.
- b) Design Standards
- (i) The Planning Board may require a landscaping plan that includes street trees to be planted no more than fifty (50) ft. apart.
  - (ii) Subdivisions within the Rural Residential Districts shall maintain any existing vegetated buffer along existing roads. The buffer may be broken only for driveways and streets.
  - (iii) Where practical the subdivision shall be designed to encourage locating buildings within forested areas and to discourage locating buildings in open fields visible from existing public roads.
  - (iv) Subdivisions should be buffered from adjacent properties where feasible. The subdivision plan should demonstrate how this will be accomplished. If necessary, the Planning Board may require the establishment of a natural or landscaped buffer to reduce the impacts of the subdivision on adjacent buildings or uses, including agriculture, as well as the impacts of the adjacent uses on the subdivision.
- 4) Utilities
- a) The subdivision must be provided with adequate electrical, telephone, and telecommunication service. New utility lines and facilities must be screened from views to the extent feasible.
  - b) Utilities serving subdivisions shall be installed underground, in order to minimize the visual impact of the subdivision.
    - (i) The Planning Board may approve overhead utilities when the applicant provides evidence that:
      - (A) the costs of underground utilities will raise the costs of the housing beyond the market in that location; and/or
      - (B) overhead utilities will not have an undue visual impact due to the setting of the subdivision.
    - (ii) When utilities are installed underground, the subdivider shall install appropriate signs indicating the location of such utilities.
- 5) Water Supply
- a) Water Quality

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Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231). 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.

b) Public Water Supply

- (i) The subdivision shall connect to the public water system if the subdivision meets the following parameters:

Number of Lots	Distance from Existing Water Main to Property <sup>1</sup>
3	300 feet
4	400 feet
5	500 feet
For each additional lot	Add 100 feet

<sup>1</sup>The distance shall be measured along the road from the nearest water main to the property boundary, including the distance to cross the road if necessary.

- (ii) The proposed subdivision will not cause an unreasonable burden on an existing water supply.
- (iii) The servicing water district shall review and approve in writing the overall system design, size and location of mains, gate valves, hydrants, and service connections.
- (iv) A proposed subdivision shall not generate a demand on the source, treatment facilities, or distribution system of the Consumers Maine Water Company or the Bowdoinham Water District beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupying the subdivision.
- (v) The applicant shall be responsible for paying the costs of improvements to the supplier's system as necessary to alleviate any deficiencies or expand the capacity of the system needed to service the subdivision.
- (vi) The complete water supply system within the subdivision, including fire hydrants and laterals to the property line of each lot created shall be installed at the expense of the applicant.
- (vii) Once the completed system has been installed and successfully tested by the servicing water district it will be deeded to the servicing water district at no cost, along with any easements necessary to permit maintenance or repair in the future.

c) Private Water Supply

- (i) The water supply shall be from individual wells or a private community water system.
- (ii) Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other sources of potential contamination.

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- (iii) Lot design shall permit placement of wells, subsurface wastewater disposal areas, and where required, reserve sites for subsurface wastewater disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules, the Well Drillers and Pump Installers Rules, and the Bowdoinham Building Code Ordinance.
  - (iv) If a central water supply system is provided by the applicant, the location and protection of the source and 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).
  - (v) Design Standards
    - (A) Dug wells shall not be constructed within one hundred (100) ft. of the edge of the pavement of any street, if located downhill from the street. In no case shall a dug well be located within fifty (50) ft. of the edge of the pavement of any street, if located uphill of the street. This restriction shall be included as a note on the plan and included in deed restrictions for the affected lots.
    - (B) The Planning Board may require the applicant to demonstrate that a potable water supply of at least three hundred and fifty (350) gallons/day can be obtained.
- 6) Sewage Disposal
- a) The development must be provided with a method of disposing of sewage which is in compliance with the State Plumbing Code and the Subsurface Wastewater Disposal Rules.
  - b) The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
    - (i) The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough for a disposal area on soils which meet the Disposal Rules.
  - c) A second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area if the limiting factor has been identified as being within eighteen (18) inches of the surface.
  - d) In no instance shall a disposal area be constructed on class D soils.
  - e) When two (2) or more lots or buildings in different ownership share the use of a common subsurface disposal system, the system must be owned and maintained in common by an owners' association. Covenants in the deeds for each lot must require mandatory membership in the association and provide for adequate funding of the association to ensure proper maintenance of the system.
- 7) Fire Protection
- a) In areas where the Planning Board determines, based upon the written recommendation of the Fire Chief or his/her designee, where a reliable water supply for firefighting purposes is not available within one-half mile of the site, the subdivider shall be responsible for providing an adequate water supply for fire protection.
  - b) Acceptable methods include, but are not limited to, fire ponds, other water sources or underground storage. An easement shall be granted to the Town for access to and maintenance of dry hydrants or reservoirs where necessary.

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c) Design Standards

- (i) If fire hydrants connected to a public water supply system are provided, they shall be located in accordance with the standards of the Fire Department and the standards of the water district, and each location shall be approved in writing by the Fire Chief or his/her designee.
- (ii) Where fire ponds are built for fire protection, a minimum storage capacity of ten thousand (10,000) gallons plus additional storage of two thousand (2,000) gallons per lot or principal building or such other amount as required by the Fire Chief shall be provided. The Planning Board may approve an alternate storage capacity based on the fire flow calculation of the current NFPA requirements and as approved by the Fire Chief.
- (iii) Where fire ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest projected water level less than an equivalent of three (3) ft. of ice.
- (iv) A detailed plan of the required pond, dry hydrant, piping, and/or access road shall be submitted as part of the application. The Fire Chief shall approve the design of all storage facilities.
- (v) Hydrants or other provisions for fire protection water supply shall meet the specifications of the Fire Department and the current NFPA requirements. The design of hydrants shall be approved by the Fire Chief or his/her designee. The minimum pipe size connecting dry hydrants to ponds or underground storage shall be eight (8) inches.
- (vi) Where a dry hydrant or other water source is not within the right-of-way of an existing public street, an easement shall be provided to the Town for access to, maintenance, and use of the dry hydrant or reservoir. A suitable access way to the hydrant or other water source shall be constructed by the applicant. It shall be built to standards approved by the Fire Chief. Once the hydrant is constructed and the easement accepted by the Town, the Town shall be responsible for the inspection. The maintenance of the access, hydrant and water source shall be subject to subsection (A) below.
  - (A) The applicant and/or homeowners association shall be responsible for the maintenance of the access way, hydrant and fire protection water supply following its installation. The Fire Department will be responsible for inspecting the access, hydrant and fire protection water supply to ensure safe working order, however if the Fire Chief determines that any improvements are necessary, then the applicant and/or homeowners association shall be responsible for any improvements.

8) Financial Capacity

a) Estimated Costs

The applicant shall specify the estimated cost of the development and itemize the estimated major expenses, including the projected cost of measures taken to minimize or prevent adverse effects on the environment during construction and operation. The itemization of major costs may include, but is not limited to, the cost of the following activities: land purchase, roads, utilities, erosion control, pollution abatement, construction, and landscaping.

- b) The Applicant shall provide one of the following unless otherwise approved by the Planning Board:

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- (i) Letter of Commitment to Fund
    - (A) A letter of commitment acceptable to the Board from a financial institution, governmental agency, or other funding agency indicating a commitment to provide a specified amount of funds and specifying how those funds will be used.
  - (ii) Self-Financing
    - (A) Annual Report: The most recent corporate annual report indicating availability of liquid assets to finance the development together with explanatory material interpreting the report; or
    - (B) Bank Statements: Copies of bank statements or other evidence indicating availability of funds if the applicant will personally finance the development.
- 9) Technical Ability
- a) The applicant shall retain qualified contractors and consultants to supervise, construct, and inspect the required improvements in the proposed subdivision.
    - i) 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 involving the applicant, consultants, contractors, or other agents of the applicant.
- 10) Shoreland
- a) Any subdivision shall be in conformance with the Shoreland Zoning provisions Article 5 and Article 7 of this Ordinance.
  - b) Whenever situated entirely or partially within the watershed of any pond or lake or within two hundred and fifty (250) ft. of any wetland or river as defined in ~~Title 38, chapter 3, subchapter 1, article 2B, 38 M.S.R.A. § 436-A,~~ the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
  - c) 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 five hundred (500) ft.
    - (i) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than two hundred and fifty (250) ft. which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
    - (ii) 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 2B, 38 M.S.R.A. § 436-A,~~ 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, 30-A M.S.R.A. § 4401, subsection 1,~~ on September 23, 1983.
  - d) When a proposed subdivision is immediately visible from a river, or stream, the development must be designed so that it fits harmoniously into the visual environment when viewed from the water body. In predominantly natural environments, site clearing must be minimized, natural vegetation must be maintained adjacent to the shoreline to soften the appearance of

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the development, and vegetation must be retained or provided to minimize the visual intrusion of the development. In developed shoreland environments, the appearance of the new development when viewed from the water must be compatible with the existing visual character in terms of scale, massing, and height to the maximum extent possible. Storage and service areas must be screened or landscaped to minimize their visual impact.

- e) The subdivision plan must provide for access to abutting navigable water bodies for the use of the occupants of the development as appropriate.
- f) Provisions must be included in the design and layout of the subdivision to avoid the proliferation of individual docks if the subdivision is adjacent to a navigable water body. If the location of the subdivision makes it likely that docking facilities will be developed, the plan must provide for not more than one "common dock" including appropriate provisions for access and parking, if needed, for the residents of the subdivision unless the Planning Board approves one or more additional common docks based upon the size or layout of the subdivision. The final plan for the subdivision must contain a condition that prohibits the installation of private docks unless specifically approved by the Planning Board. The Planning Board may approve one or more private docks only if it finds that the provision of a common dock will have a greater impact on the shoreline and the water body.

11) Floodplain

- a) The proposed subdivision is in compliance with the Floodplain Management provisions of Article 8 of this Ordinance.
- b) All such proposals are consistent with the need to minimize flood damage.
- c) All public utilities and facilities, such as sewer, gas, electrical and water systems are located and constructed to minimize or eliminate flood damages.
- d) Adequate drainage is provided so as to reduce exposure to flood hazards.
- e) All proposals include base flood elevations, flood boundaries, and, in a riverine floodplain, floodway data. These determinations shall be based on engineering practices recognized by the Federal Emergency Management Agency.
- f) Any proposed development plan must include a condition of plan approval requiring that structures on any lot in the development, having any portion of its land within a Special Flood Hazard Area, are to be constructed in accordance with Article 6 of this ordinance. Such requirement will 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 condition 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 any map, plat, or plan to be signed by the Planning Board or local reviewing authority as part of the approval process.

12) Wetlands & Waterbodies

- a) The subdivision must not adversely affect the water quality or shoreline of any adjacent water body, to the extent practicable.
- b) Activities within two hundred and fifty (250) ft. of vernal pools shall meet requirements set by Maine Department of Environmental Protection's Natural Resources Protection Act.

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13) Historic & Archaeological

- a) If any portion of the site has been identified as containing historic or archaeological resources by the Maine Historic Preservation Commission, the development must include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation.
- b) Proposed subdivisions which include or are adjacent to buildings or sites on the National Register of Historic Places or which the Comprehensive Plan has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. 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 Planning Board may require the applicant to seek the advice of the Maine Historic Preservation Commission.

14) Groundwater

- a) Projects that involve on-site water supply or sewage disposal systems with a total capacity of two thousand (2,000) gallons per day or greater must demonstrate that the groundwater at the property line will comply with the standards for safe drinking water as established by the State of Maine in 10-144A C.M.R. 231.
- b) Ground Water Quality
  - (i) 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.
  - (ii) 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.
  - (iii) 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 one hundred and fifty percent (150%) of the ambient concentration.
  - (iv) When a hydrogeologic assessment is submitted, the assessment may contain any of the following information at the request of the Planning Board:
    - (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 one thousand (1,000) ft. from potential contamination sources, whichever is a shortest distance.

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(F) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within two hundred (200) ft. of the subdivision boundaries.

(G) The location of the proposed subsurface wastewater systems and the well exclusion area shall be shown on the Recording Plat.

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

(vi) Subsurface wastewater 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.

c) Ground Water Quantity

(i) Ground water withdrawals by a proposed subdivision utilizing an association well shall not lower the water table beyond the boundaries of the subdivision.

15) Wildlife Habitat

a) Performance Standard

(i) If any portion of a proposed subdivision lies within areas identified and mapped by the Department of Inland Fisheries and Wildlife, the applicant shall demonstrate that there shall be minimal impacts on the habitat and species it supports. The plan shall provide for protection of the identified resource in a manner acceptable to the Maine Department of Inland Fisheries and Wildlife or in accordance with the recommendations of a wildlife biologist with demonstrated experience with the wildlife resource being impacted and approved by the Board. In the latter situation, the report prepared by the wildlife biologist shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have minimal impacts on the habitat and the species it supports. These areas include:

(A) habitat for species appearing on the official state or federal lists of endangered or threatened species;

(B) high and moderate value waterfowl habitats, including nesting and feeding areas; or

(C) a high or moderate value deer wintering area.

b) Design Standard

(i) The following standards are designed to protect the significant wildlife resources identified in the Town. The Planning Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified above.

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- (ii) The habitat of species appearing on the official state or federal lists of endangered or threatened species shall be maintained in common space.
- (iii) Deed restrictions and notes on the plan shall reflect standards from the Department of Inland Fisheries and Wildlife for removal of vegetation within two hundred and fifty (250) ft. of the habitat for species appearing on the list of endangered or threatened species unless the Maine Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.
- (iv) There shall be no cutting of vegetation within the strip of land extending seventy-five (75) ft. inland from the normal high-water mark or upland limit of wetland of high and moderate value waterfowl habitats, including nesting and feeding areas, unless the Maine Department of Inland Fisheries and Wildlife has approved such cutting of vegetation in writing. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
- (v) Protection of Deer Wintering Area. The report prepared by a wildlife biologist shall include a management plan for deer wintering areas.
- (vi) If the proposed subdivision includes other important wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the comprehensive plan, the restrictions on activities in and around these areas shall be reviewed by the Department or a qualified wildlife biologist, and their comments presented in writing to the Planning Board.

16) Natural Areas

- a) 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, including but not limited to, modification of the proposed design of the site, timing of construction, and limiting the extent of excavation. The Planning Board may require the applicant to seek the advice of the Maine Natural Areas Program.
- b) The Planning Board may require a survey from a qualified professional of the area in question if it has not been previously surveyed.

17) Open Space

- a) A major or minor subdivision shall reserve a portion of the parcel, per the requirements of the district, as common open space.
- b) There are three components to planning for common open space:
  - (i) determining the total area required,
  - (ii) determining the actual part(s) of the parcel that will be set aside as common open space, and
  - (iii) determining ownership of the common open space.
- c) The placement of common open space shall be determined by following the Four Step Planning Process outlined in Appendix 4.
- d) The applicant's plan for the ownership of the common open space must be indicated in the subdivision plan. The common open space may be owned by:

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- (i) a homeowner association;
  - (ii) a land trust or conservation organization; or
  - (iii) the owner of the property at the time of the subdivision.
- e) The common open space must be permanently protected by appropriate conservation easements or deed restrictions or other legally binding protection that is enforceable including the right of the Town to enforce the provisions.
- f) Unusual conditions in a given parcel may suggest the need for flexibility or an alternative proposal for securing the objectives outlined in the definition of common open space and in the Four Step Planning Process, in which case the applicant may choose to request a waiver or adjustment of one or more provisions, as described in Article 9.I-Waivers.
- 18) Environmental Impact
- a) The landscape will be preserved in its natural state to the extent that is practical by minimizing tree removal, disturbance of soil and retaining existing vegetation.
  - b) Extensive grading and filling must be avoided as far as possible.
  - c) The proposed subdivision will not cause a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- 19) Solid Waste Management
- a) 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.
  - b) The Planning Board shall require the applicant to make arrangements for the disposal of the solid waste in accordance with the Bowdoinham Solid Waste Ordinances. The alternate arrangements shall be at a disposal facility which is in compliance with its license.
  - c) The Association of the proposed subdivision shall construct and maintain a recycling and trash receptacle at the intersection of the nearest Town Road appropriate to size of the subdivision. The receptacle is to be shielded from public view and accessible to the Town Solid Waste Contractor or a privately owned operation.
  - d) 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 Planning Board may not require the alternate arrangement to exceed a period of five years.
- 20) Air Quality
- The proposed development will meet the Maine Department of Environmental Protection and U.S. Environmental Protection Agency standards.
- 21) Water Quality
- a) The proposed development will not result in water pollution. In making this determination, the Planning Board shall at least consider:

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- (i) the elevation of the land above sea level and its relation to the floodplain;
  - (ii) the nature of soils and subsoils and their ability to adequately support waste disposal;
  - (iii) the slope of the land and its effect on effluents;
  - (iv) the availability of streams for disposal of effluents; and
  - (v) the applicable state and local health and water resource rules and regulations.
- b) The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
  - c) Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface water bodies.
  - d) If the project is located within the direct watershed of a 'body of water most at risk from development' or 'a sensitive or threatened region or watershed' as identified by the Maine Department of Environmental Protection (DEP), and is of such magnitude as to require a stormwater permit from the DEP, the project must comply with the standards of the DEP with respect to the export of total suspended solids and/or phosphorous. If the project does not require a stormwater permit from the DEP, it must be designed to minimize the export of phosphorous from the site to the extent reasonable with the proposed use and the characteristics of the site.

22) Stormwater

a) Performance Standards

- (i) Adequate provisions shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system using practices as described in or equivalent to those described in the Storm Water Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 or current edition. The storm water management system shall be designed to meet the following standards:

(A) Quantity

- (1) Peak discharge rates shall be limited to the predevelopment levels for the two-(2-) year, ten-(10-) year, and twenty-five-(25-) year frequency, twenty-four (24-) hour duration storm.
- (2) Storm water management provisions shall use storm water BMP's that provide for the infiltration of surface runoff into the ground and that minimize the total volume of runoff from the site.

(B) Quality

Any subdivision that will result in the creation of more than twenty thousand (20,000) sq. ft. of impervious areas such as roads, drives, walks, and roofs, or five (5) or more acres of disturbed area shall manage the quality of the storm water runoff to meet the following standards. Storm water best management practices (BMP's) appropriate for the site and type of activity must be used to meet the standards specified in this section. Preference shall be given to the use of nonstructural BMP's where feasible. The standards must be met at the property line or before the runoff

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enters a water body, whichever point is first reached by the runoff. Retention of the first one-half inch of runoff from a storm event for twenty-four (24) hours may be required.

(1) Sliding Scale Total Suspended Solids (TSS) Standard

Storm water from the impervious areas and disturbed areas in each identified sub watershed on the site must be treated by the use of storm water best management practices designed to remove total suspended solids to the levels indicated in the Maine Department of Environmental Protection's "Sliding Scale TSS Standard (Chapter 500, Storm Water Management, Section 4.A.(2)(a))." The prescribed level of treatment must be applied to all impervious surfaces such that the weighted average TSS removal equals or exceeds the prescribed removal level.

(2) Basic Stabilization Standard

Each project subject to this section shall prepare a storm water facilities management plan which shall be reviewed and approved as part of the subdivision approval. This plan shall set forth the types and frequencies of proposed maintenance activities for all private elements of the storm water system and shall identify the party responsible for carrying out each maintenance activity.

If the subdivision contains less than twenty thousand (20,000) sq. ft. of impervious area, the storm water shall be treated by the use of best management practices equivalent to those described in the Storm Water Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 or current edition, to achieve, by design, a fifteen percent (15%) reduction in total suspended solids.

(3) Ditches, swales, and other open storm water channels must be designed, constructed, and stabilized using erosion and sedimentation control best management practices that achieve long term erosion control, and must receive adequate routine maintenance to maintain capacity and prevent or correct any erosion of the channel's bottom or side slopes.

(4) The project site must be maintained to prevent or correct erosion problems.

Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins, or other means of channeling surface water within the subdivision and over other properties

b) Design Standards

(i) The design of the best management practices shall be equivalent to those described in the Storm Water Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection, 1995 or current edition.

(ii) The minimum pipe size for any storm drainage pipe shall be fifteen (15) inches for driveway entrances and eighteen (18) inches for cross culverts. The minimum pipe size between drainage structures and at inlets and outfalls shall be fifteen (15) inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) ft. Pipe shall be bedded in a fine granular material reaching a minimum of six (6)

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inches below the bottom of the pipe and extending to six (6) inches above the top of the pipe. The material shall contain no stones larger than three (3) inches, lumps of clay, or organic matter.

(iii) Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.

(iv) Storm Drainage Construction Standards

(A) Materials

- (1) Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.
- (2) Where the storm drainage pipe is to be covered by ten (10) ft. or more of fill material, pipe material with a fifty-(50-) year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, and corrugated aluminum alloy pipe.

(B) Pipe Gauges

Metallic storm drainage pipe shall meet the thickness requirements determined by the Road Commissioner.

(C) Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consulting with an engineer.

23) Sedimentation & Erosion Control

- a) The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.
- b) The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- c) Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations unless the removal has received site plan approval in accordance with the extraction provisions of the Zoning Ordinance.
- d) Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, dated March 2003.

24) Compliance with Ordinances

- a) The proposed subdivision shall conform with the provisions of this Land Use Ordinance and other ordinances and regulations of the Town of Bowdoinham.
- b) Any future division shall constitute a revision to the plan and shall require approval from the Planning Board based upon the criteria of the subdivision statute at the time of the revision,

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the standards of the Town's Subdivision Ordinance then in effect, and any conditions placed on the original approval.

25) Impact of Adjoining Municipality

If the subdivision is located in two (2) or more municipalities, the applicant shall demonstrate that the project will meet the standards of Article 9.G.2 for all roads impacted by the subdivision regardless of in which municipality the impacted roads are located.

26) Spaghetti-lots

Any lots in the proposed subdivision which have shore frontage on a river, stream, brook or coastal wetland shall have a lot depth to shore frontage ratio less than or equal to 5 to 1.

27) Liquidation Harvesting

- a) Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S.A. § 8869(14).
- b) 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.
- c) 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 32 M.R.S.A. § 5501 et.seq.
- d) 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 findings 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.
- e) For the purposes of this subsection, "liquidation harvesting" has the same meaning as in 12 M.R.S.A. § 8868(6) and "parcel" means a contiguous area within one municipality owned by one person or a group of persons in common or joint ownership.
- f) This subsection takes effect on the effective date of rules adopted pursuant to 12 M.R.S.A. § 8869(14).

**H) General Provisions**

- 1) Prior to the sale of any lot, the subdivider shall provide the Planning Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- 2) 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

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proposed public way meets or exceeds the design and construction requirements of this 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. "As built" plans shall be submitted to the municipal officers and to the utility.

- 3) The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until or control is placed with a lot owners' association or until accepted by the Town.
- a) The subdivider must submit an inspection report from a licensed engineer that confirms that the infrastructure has been constructed to the approved standard before control is placed with a lot owners' association or before it is offer to the Town.
- 4) The subdivider may not sell a lot or dwelling unit within the subdivision until:
  - a) The infrastructure serving that dwelling has been constructed as approved. The subdivider must provide an inspection report that confirms the infrastructure has been constructed as approved. Infrastructure shall include but is not limited to: roadway, power, cable, telephone, stormwater, and fire protection.
  - b) Any applicable conditions of approval have been met.

**I) Waivers**

- 1) Waivers of Submission Requirements Authorized
  - a) On request by the applicant or on its own motion where the Planning Board determines there are special circumstances relating to a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, except any submission requirements as to which the Ordinance specifically prohibits waivers.
  - b) For a requested waiver to be granted, the applicant must demonstrate that the Planning Board can evaluate the proposed subdivision under the standards of 30-A M.R.S.A. § 4404 and of this Ordinance without the information contained in the submissions for which the applicant requests a waiver.
  - c) A request for a waiver must be made in writing by the applicant.
  - d) The Planning Board shall review the request and either approve, modify, or deny it by formal vote of the Board.
- 2) Waivers of Standards Authorized
  - a) Where the Planning Board makes written findings of fact that:
    - (i) due to special circumstances of a particular parcel proposed to be subdivided, the provision of certain required improvements is not required to provide for the public health, safety, or welfare or is inappropriate because of inadequate or nonexistent connecting facilities adjacent to or in proximity of the proposed subdivision; or
    - (ii) where the Planning Board makes written findings of fact that, due to special circumstances of a particular parcel proposed to be subdivided, compliance with certain of the standards of 30-A M.R.S.A. § 4404 or of this Ordinance is not required, the Board, on request by the applicant may waive such requirement or standard, subject to

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appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the Bowdoinham Comprehensive Plan, or this Ordinance, and provided that the public health, safety, and welfare will not be compromised by the waiver.

- b) A request for a waiver must be made in writing by the applicant.
- c) The Planning Board shall review the request and either approve, modify, or deny it by formal vote of the Board.
- 3) Waivers may only be granted in accordance with subsections 1 and 2 above. When granting waivers, the Planning Board may set conditions so that the purposes of this Ordinance are met.
- 4) Waivers to Be Shown on the Recording Plan

When the Planning Board grants a waiver from any of the submission requirements or standards required by this Ordinance or from any of the standards of 30-A M.R.S.A § 4404 or this Ordinance, the recording plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

**J) Inspections & Violations**

- 1) Inspections
  - a) At least five days prior to commencing construction of required improvements, the subdivider or builder shall:  
  
Notify the Code Enforcement Officer in writing of the time when (s)he proposes to commence construction of such infrastructure, so that the Code Enforcement 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 Planning Board.
  - b) Monuments
    - (i) Minor Subdivisions.  
  
Minor Subdivisions will have iron pins at the corner points of every lot. (A minimum of four (4) pins).
    - (ii) Major Subdivisions
      - (A) Stone or precast reinforced concrete monuments shall be set at all street intersections and points of curvature, but no further than seven hundred and fifty (750) ft. apart along all street lines.
      - (B) Stone or precast reinforced concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is one hundred and thirty-five (135) degrees or less, except where monumentation exists prior to this subdivision.
      - (C) Stone or precast reinforced concrete monuments shall be a minimum of four (4) inches square at the top and four (4) ft. in length and set in the ground at final grade

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level. If site conditions prohibit the installation of a four-(4-) foot monument, the Code Enforcement Officer may approve alternative provisions for permanent monumentation. After they are set, a drill hole one-half inch deep shall locate the point or points described above.

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

2) Violations

- 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 Planning Board in accordance with this ordinance.
- b) A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Planning 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 or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Planning Board.
- e) Development of a subdivision without Planning Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in this ordinance 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 this ordinance 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 this ordinance.
- g) Violations of the above provisions of this section are a nuisance and shall be punishable in accordance with the provisions of 30-A M.R.S.A. § 4452.