

TOWN OF NEW GLOUCESTER

SUBDIVISION REGULATIONS



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**Town of New Gloucester
Subdivision Regulations**

TABLE OF CONTENTS

ARTICLE 1	Purposes
ARTICLE 2	Authority and Administration
ARTICLE 3	Definitions
ARTICLE 4	Administrative Procedure
ARTICLE 5	Preapplication
ARTICLE 6	Minor Subdivisions
ARTICLE 7	Preliminary Plan for Major Subdivision
ARTICLE 8	Final Plan for Major Subdivisions
ARTICLE 9	Revisions to Approved Plans
ARTICLE 10	Enforcement
ARTICLE 11	General Standards
ARTICLE 12	[Repealed]
ARTICLE 13	Performance Guarantees
ARTICLE 14	Waivers
ARTICLE 15	Appeals

ARTICLE 1. PURPOSES

The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people, of the Town of New Gloucester, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of New Gloucester, Maine, the Planning Board shall consider the following criteria and before granting approval shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. §4404. The subdivision:

- 1.1 Will not result in undue water or air pollution. In making this determination, the Board shall at least consider the elevation of the land above sea level and its relation to the flood plains; the nature of soils and subsoil's and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for the disposal of effluents; and the applicable state and local health and water resource rules and regulations;
- 1.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- 1.3 Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- 1.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- 1.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
- 1.6 Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- 1.7 Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste if municipal services are to be utilized;
- 1.8 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat as defined by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas, or any public rights for physical or visual access to the shoreline;
- 1.9 Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;
- 1.10 The subdivider has adequate financial and technical capacity to meet the above stated standards;
- 1.11 **Surface waters; outstanding river segments.** Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in

Title 38, chapter 3, subchapter 1, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

- A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.
- (1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
 - (2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter 1, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;

- 1.12** Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- 1.13 Flood areas.** Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least on foot above the 100-year flood elevation;
- 1.14 Freshwater wetlands.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- 1.15** Shall identify any river, stream or brook within or abutting the subdivision on maps submitted as part of the application. "River, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
- 1.16** Will provide for adequate storm water management; and
- 1.17 Spaghetti-lots prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1; and

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

ARTICLE 2. AUTHORITY AND ADMINISTRATION

2.1 Authority.

- A. This ordinance has been prepared in accordance with the provisions of Title 30A M.R.S.A., §4403.
- B. This ordinance shall be known and may be cited as "Subdivision Ordinance of the Town of New Gloucester, Maine."

2.2 Administration.

- A. The Planning Board of the Town of New Gloucester, hereinafter called the Board, shall administer this .
- B. The provisions of this ordinance shall pertain to all land proposed for subdivision, as defined in Title 30A M.R.S.A., §4401, Subsection 4, within the boundaries of the Town of New Gloucester.

ARTICLE 3. DEFINITIONS

In general, words and terms used in this ordinance shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Abutter: The owner of a property sharing a common boundary with or within 500 feet of a given piece of property, whether or not these properties are separated by a public or private way. For the purposes of these Regulations, the owners of properties shall be considered to be those parties currently listed by the Tax Assessor of New Gloucester as those against whom taxes are assessed.

Average Daily Traffic (ADT) - The average number of vehicles per day that enter and exit the premises or travel over a specific section of road. If the Planning Board or Code Enforcement Officer require a traffic study, then ADT shall be determined by traffic study. If no traffic study is required, then ADT shall be assumed to be ten (10) vehicles per day per dwelling unit. [Adopted 5/2/2011 Town Meeting]

Cluster Subdivision: A subdivision that allows a reduction in lot size and area standards, with the remaining land to be used for recreation, open space, preservation of environmental features, agriculture or timber harvesting, with provision of permanent open space owned by lot/unit owners, the Town, third parties or a land conservation organization.

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

Comprehensive Plan or Policy Statement: Any part or element of the overall plan or policy for development of the municipality as defined in Title 30A M.R.S.A., Section 4326.

Contiguous Lots: Lots which adjoin at any line or point, or are separated at any point by a body of water less than fifteen feet wide.

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

Driveway - a vehicular access-way serving three (3) or fewer dwelling units.

Common Driveway: A vehicle access-way serving more than one (1) dwelling unit, but no more than three (3) dwelling units. Common driveways must be named in accordance with section 5.1.34 of the New Gloucester Zoning Ordinance [Adopted 5/2/2011 Town Meeting]

Private Driveway: A vehicle access-way serving one (1) dwelling unit. [Adopted 5/2/2011 Town Meeting]

Dwelling Unit: A "dwelling unit" means any part of a structure which, through sale or lease, is intended for human habitation, including single family and multi-family housing, condominiums, time-share

units, and apartments. Notwithstanding the provisions of this paragraph, leased dwelling units are not subject to subdivision review if the units are otherwise subject to municipal review at least as stringent as that required under this section.

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

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

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

Normal High Water Mark of Inland Waters: That line on the shores of banks on non tidal waters which is apparent because of the different character of the contiguous soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: Water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined, (rockslides, ledges, rapidly eroding or slumping banks) the normal high water mark shall be estimated from places where it can be determined by the above method.

Industrial Park or Development: A subdivision in an area zoned exclusively for industrial uses, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

- a) Office Park: A subdivision planned for office uses that are developed and managed as a unit, usually with provisions for common services for the owners or tenants.
- b) Retail Shopping Center: A subdivision planned entirely for retail uses that are developed and managed as a unit, usually with provisions for common services for the owners or tenants.

Net Residential Acreage: The net acreage of a parcel or site that is generally suitable for development in its natural state. Net residential acreage shall be determined by subtracting unsuitable and marginal areas from the gross area of the parcel as outlined in Section 11.3.

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

Date: Official Submittal -The date upon which the Board or its Designee issues a receipt indicating a complete application has been submitted.

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

Planning Board: The Planning Board of the Town of New Gloucester, created under Title 30 A, M.R.S.A., 3001.

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

Recording Plan: A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts, and building lines.

Reliable water supply: A reliable water supply for fire-fighting purposes shall be considered a source of water accessible and available year-round, that is sufficient in size and capacity to provide sufficient water for rural fire-fighting purposes. [added May 1, 2006]

Resubdivision: The division of an existing subdivision or any change in the plan for an approved subdivision which effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Road: A route or track consisting of a bed of exposed mineral soil, gravel, asphalt, or other surfacing material constructed for or created by the repeated passage of motorized vehicles, excluding a driveway as defined. For the purpose of this Ordinance and for determining minimum road frontage requirements, a road is considered to be: (a) any public road maintained by public authority, excluding a limited access highway; (b) a private road located within a sixty (60) foot right of way; (c) a private road shown on a recordable plan, approved by the Planning Board; or (d) a private road in existence and in use on the effective date of adoption of this ordinance that has a right of way width of at least 25 feet. A road or road shall include the land between the road/street lines right-of-way boundaries, whether improved or unimproved. [Amended 5/2/2011 Town Meeting]

Arterial Road: A road designated to carry traffic through the Town between major points with limited access. [Amended 5/2/2011 Town Meeting]

Collector Road: A road designated to carry traffic between local roads and arterial roads, or from local road to local road; designed to provide circulation between neighborhoods; and carrying a lower volume of traffic than arterial roads. [Amended 5/2/2011 Town Meeting]

Industrial/Commercial Road: A road designated to transport raw, processed or manufactured resources, machinery, or personnel to and from an industrial or commercial facility. Does not include Forest Service roads; a private road used by a resident for the person's own purposes; a road used exclusively for the construction and maintenance of electric power lines, telephone lines or pipe lines; roads and yards within individually owned manufacturing plants, industrial

facilities, commercial facilities, storage yards, and construction sites. [Amended 5/2/2011 Town Meeting]

Local Road: A road designated to carry traffic from local residences or businesses to a road of higher standard; typically in a neighborhood setting; and carrying a lower volume of traffic than collector roads. [Adopted 5/2/2011 Town Meeting]

Private Road: Any road designed for private use and maintained by a property owner or group of property owners, and which is not an accepted town road. The authority for approving names of private roads shall rest with the Board of Selectmen or their designated representative(s). [Amended 5/2/2011 Town Meeting]

Public Road: Any road owned and maintained by the State, county or town, over which the general public has a right to pass. [Adopted 5/2/2011 Town Meeting]

Solar Collector: A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes to a building's energy supply.

Solar Energy System: A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

Subdivision: The division of a tract or parcel of land as defined in Title 30-A, M.R.S.A., Section 4401 et. seq., as amended.

Subdivision, Major: Any subdivision containing more than four lots or dwelling units.

Subdivision, Minor: Any subdivision containing four lots or dwelling units or less.

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

Wetland: land meeting the criteria as specified in Article 2 of the New Gloucester Zoning Ordinance.

ARTICLE 4. ADMINISTRATIVE PROCEDURE

- 4.1 Purpose.** The purpose of this Article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.
- 4.2 Agenda.** In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least two weeks in advance of a regularly scheduled meeting by contacting the Code Enforcement Officer. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

ARTICLE 5. PREAPPLICATION

5.1 Procedure.

Each applicant shall submit and present a preapplication in accordance with the following guidelines.

- A. Applicant presentation and submission of sketch plans.
- B. Following a question and answer period, the Board may make specific suggestions to be incorporated by the applicant into subsequent submissions.
- C. Scheduling of on-site inspection.

5.2 Submission. The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The developer shall also submit an alternative development Sketch Plan which incorporates open space through clustered development according to the guidelines contained in Section 5.1.7 of the New Gloucester Zoning Ordinance. The Sketch Plan, which may be a free-hand pencilled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten acres in size.

5.3 On-Site Inspection. Within thirty days, the Board shall hold an on-site inspection of the property. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board may conduct additional site walks throughout the review process.

5.4 Rights not Vested. The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A., §302.

ARTICLE 6. MINOR SUBDIVISION

- 6.1 General.** The Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.
- 6.2 Procedure.**
- A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan at least two weeks prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
 - B. All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee as determined by the Board of Selectmen. In addition, the Board may collect fees for outside consulting opinions for legal or technical assistance needed for proper consideration of the application. Such fees shall be administered according to provisions outlined in Section 7.6 of the New Gloucester Zoning Ordinance. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the additional costs of advertising. The applicant shall be charged for all postage associated with mailing plan materials to Planning Board members.
 - C. The subdivider shall use certified mail or certificate of mail to notify abutting property owners that an application for subdivision approval has been submitted to the Board. The subdivider shall certify in writing to the Board, including copies of all receipts, that notification has been done.
 - D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
 - E. Upon determination by the Planning Board that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
 - F. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. The applicants shall notify all owners of abutting property of the public hearing at least seven days prior to the hearing via certified mail or a certificate of mail, and shall certify in writing to the Board, including all receipts, that the notification has been done.
 - G. The Board, within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30A, M.R.S.A. §4404, subsection 3 and in this

ordinance. If the Board finds that all standards of the Statute and these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute or this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The Board shall specify in writing, as part of its permanent record, its finding of facts, conclusions, and reasons for any conditions or denial as provided in Title 30A, M.R.S.A. §4403.

- H. Upon approval of the final plan, the Board shall endorse the mylar and one copy for the applicant and one copy for the municipal file.

6.3 Submissions.

- A. The subdivision plan for a Minor Subdivision shall consist of one reproducible, stable based transparent original to be recorded at the Registry of Deeds, and twelve copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the borderlines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted.

The application for approval of a Minor Subdivision shall include the following information:

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
2. Verification of right, title, or interest in the property which shall include the names and address of all interested persons as defined in these regulations. If "interested persons" includes a firm, association, partnership, etc., the names and addresses of all individuals involved, and their respective positions or interest shall be submitted.
3. A field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument to be set or found at each lot corner.
4. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.
6. Indication of the type of sewage disposal to be used in the subdivision.

- a. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer District stating the district has the capacity to collect and treat the wastewater shall be provided.
 - b. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator, shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. Indication of the type of water supply system(s) to be used in the subdivision.
- a. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the district approving the design of the extension shall be submitted.
 - b. If 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, or other evidence satisfactory to the Board.
8. The date the Plan was prepared, north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan, signature and seal of registered land surveyor, and the names of adjoining property owners. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
9. A copy of the portion of the county Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
10. A copy of an aerial photograph or satellite image of the site (can be obtained from the Soil Conservation Service.)
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted.
12. The location, names and present widths of existing and proposed roads, highways, 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 road line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of

all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each road shall be included.

13. Unless otherwise specified or waived by the Board, contour lines at 2 ft. intervals, showing elevations in relation to mean Sea Level shall be submitted. Where necessary to determine compliance with general standards in Article 11 and the approval criteria herein, the board may require finished grade plans for all or a portion of the site.
14. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
15. A hydrogeologic assessment prepared in accordance with Section 11.11.A by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and:
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on maps entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers", by the Maine Geological Survey, 1985 or located within the Groundwater Protection Overlay District as shown on the official zoning map of the Town; or
 - b. The subdivision has an average density of less than 100,000 square feet per dwelling unit
16. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
17. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the road giving access to the site and neighboring roads which may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates used shall be the mean value reported the latest addition "Trip Generation", published by the Institute of Transportation Engineers.
18. Where subdivisions include wetland areas as mapped on the New Gloucester Water Resources Map, 1990, or otherwise include land meeting the definition of wetland, as defined in Article 2 of the Zoning Ordinance, the submission materials shall include those listed in Section 5.1.26D of the Zoning Ordinance.
19. Detailed construction drawings showing a plan view, profile, and typical cross-section of proposed roads in accordance with the design requirements contained in Article 8 of the Zoning Ordinance of the Town of New Gloucester, Maine.

20. For subdivisions involving the transfer of development rights, the TDR Certificate(s) issued by the Town or a draft agreement to purchase the development rights dependent upon approval of the subdivision by the Planning Board, pursuant to Article 9 of the New Gloucester Zoning Ordinance. [Amended 12/14/2004 Special Town Meeting & 05/03/2010 Town Meeting]
21. A future road sketch plan shall accompany subdivision applications in order to facilitate orderly development of future road systems. The plan shall show the pattern of existing, currently proposed and possible future roads on the entire property proposed for subdivision. The road plan is not binding; rather it is intended to show potential future road extensions associated with future development.

6.4 Final Approval and Filing.

- A. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions on a previously approved Plan.
- B. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. §4404, and this ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. 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 10. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A. §4404, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- D. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any road, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

- E. Failure to complete construction of a subdivision's public improvements 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 the Code Enforcement Officer place a notice in the Registry of Deeds to that effect.

ARTICLE 7. PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1 Procedure.

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least two weeks prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee as determined by the Board of Selectmen. In addition, the Board may collect fees for outside consulting opinions for legal or technical assistance needed for proper consideration of the application. Such fees shall be administered according to provisions outlined in Section 7.6 of the New Gloucester Zoning Ordinance. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising. The applicant shall be charged for all postage associated with mailing plan materials to Planning Board members.
- C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. The subdivider shall use certified mail or certificate of mail to notify abutting property owners that an application for subdivision approval has been submitted to the Board. The subdivider shall certify in writing to the Board, including copies of all receipts, that notification has been done.
- E. Within thirty days of receipt of a Preliminary Plan application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- F. Upon determination by the Board that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing. The applicants shall notify all owners of abutting property of the public hearing at least seven days prior to the hearing via certified mail or a certificate of mail, and shall certify in writing to the Board including all receipts, that the notification has been done. When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the clerk and the Planning Board of the adjacent municipality involved at least ten days prior to the hearing.

- G. The Board shall, within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, make findings of facts and conclusions relative to the standards contained in Title 30-A, M.R.S.A. §4404, and in this ordinance. If the Board finds that all standards of the Statute and this ordinance have been met, they shall approve the Preliminary Plan. If the Board finds that any of the standards of the Statute or these regulations have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The Board shall specify in writing, as part of its permanent record, its findings of facts, conclusions, and reasons for any conditions or denial as provided in Title 30-A, M.R.S.A. §4403, subsection 5.
- H. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the Final Plan;
 - 2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
 - 3. The amount and type of all performance guarantees which it will require as prerequisite to the approval of the Final Plan;
- I. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of this ordinance and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

7.2 Submissions.

- A. Location Map. The Preliminary Plan shall be accompanied by a Location Map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:
 - 1. Existing subdivisions in the proximity of the proposed subdivision.
 - 2. Locations and names of existing and proposed roads.
 - 3. Boundaries and designations of zoning districts.
 - 4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.

- B. Preliminary Plan. The Preliminary Plan shall be submitted in ten copies of one or more maps or drawings, which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch. The Board may allow plans for subdivisions containing more than one hundred acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. The following information shall either be shown on the Preliminary Plan or accompany the application for preliminary approval:
1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.
 2. Verification of right, title, or interest in the property, which shall include the names and address of all interested persons as defined in these regulations. If interested persons" includes a firm, association, partnership, etc., the names and addresses of all individuals involved and there respective positions or interest shall be submitted.
 3. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.
 4. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
 5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
 6. Unless otherwise specified or waived by the Board, contour lines at 2 ft. intervals, showing elevations in relation to mean sea level, shall be submitted. Where necessary to determine compliance with general standards in Article 2 and the approval criteria herein, the Board may require finished grade plans for all or a portion of the site.
 7. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, and other essential existing physical features.
 8. Indication of the type of sewage disposal to be used in the subdivision.
 - a. If sewage disposal is to be accomplished by connection to the public sewer, a letter from the Sewer District indicating there is adequate capacity within the District's system to transport and treat the sewage shall be submitted.
 - b. If sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, prepared by a Licensed Site Evaluator, shall be provided. A map showing the location of all test pits dug on the site shall be submitted.

9. Indication of the type of water supply system(s) to be used in the subdivision.
 - a. When water is to be supplied by public water supply, a letter from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
 - b. If 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.
10. The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
11. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.
12. The location of any zoning boundaries affecting the subdivision.
13. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
14. The location, names, and present widths of existing and proposed roads, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
15. The width and location of any roads or public improvements shown in the Comprehensive Plan, if any, within the subdivision.
16. The proposed lot lines with approximate dimensions and lot areas.
17. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
18. The location of any open space to be preserved and a description of proposed improvements and its management
19. A copy of that portion of the county Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
20. A copy of an aerial photograph or satellite image of the site (available from Soil Conservation Service.)

21. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
22. A hydrogeologic assessment, prepared in accordance with Section 11.11.A by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and
 - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled Hydrogeologic Data for Significant Sand and Gravel Aquifers, by the Maine Geological Survey, 1985, or is located within the Groundwater Protection Overlay District as shown on the Official Zoning Map of the Town; or
 - b. The subdivision has an average density of less than 100,000 square feet per dwelling unit
23. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
24. For subdivisions involving 40 or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the road giving access to the site and neighboring roads which may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates used shall be the mean value reported in the latest edition of "Trip Generation ", published by the Institute of Transportation Engineer.
25. Where subdivisions include wetland areas as mapped on the New Gloucester Water Resources Map, 1990, or otherwise include land meeting the definition of wetland, as defined in Article 2 of the Zoning Ordinance, the submission materials shall include those listed in Section 5.1.26.D of the Zoning Ordinance.
26. For subdivisions involving the transfer of development rights, the TDR Certificate(s) issued by the Town or a draft agreement to purchase the development rights dependent upon approval of the subdivision by the Planning Board, pursuant to Article 9 of the New Gloucester Zoning Ordinance. [Amended 12/14/2004 Special Town Meeting & 05/03/2010 Town Meeting]

ARTICLE 8. FINAL PLAN FOR MAJOR SUBDIVISION

8.1 Procedure.

- A. The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan at least two weeks prior to a scheduled meeting of the Board. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- B. All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee as determined by the Board of Selectmen. In addition, the Board may collect fees for outside consulting opinions for legal or technical assistance needed for proper consideration of the application. Such fees shall be administered according to provisions outlined in Section 7.6 of the New Gloucester Zoning Ordinance. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where appropriate:
 - 1. Maine Department of Environmental Protection, under the Site Location of Development Act, the Natural Resource Protection Act, or if a Wastewater Discharge License is needed.
 - 2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
 - 3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- D. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- E. Upon determination by the Board that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- F. A public hearing may be held by the Board within thirty days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing. The applicants shall notify all owners of abutting property of the public hearing at least seven days prior to the hearing via certified mail

or a certificate of mail, and shall certify in writing to the Board including receipts, that the notification has been done.

When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.

- G. The Board shall notify the Public Works Director, School Superintendent, Police Chief, (or other relevant State or County law enforcement agencies) and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- H. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article 8.
- I. If the subdivision is located in more than one municipality, the Board may have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.
- J. The Board, within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in this ordinance. If the Board finds that all standards of the Statute and these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute or this ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The Board shall specify in writing, as part of its permanent record, its finding of facts, conclusions, and reasons for any conditions or denial as provided in Title 30-A, M.R.S.A. § 4403.

8.2 Submissions.

The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the borderline on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. Two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Municipal Offices, and three copies of the plan shall be submitted. The subdivider may, instead submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with ten copies of the Final Plan. In addition, one copy of the Final Plan, reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

The application for approval of the Final Plan shall include the following information.

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. Indication of the type of sewage disposal to be used in the subdivision.
 - 1. If sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Sewer District shall be submitted indicating the District has reviewed and approved the sewerage design.
 - 2. If sewage disposal is to be accomplished by subsurface sewage disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
- E. Indication of the type of water supply system(s) to be used in the subdivision.
 - 1. If water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design. A written statement shall be submitted from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.
 - 2. If 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.
- F. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
- G. The location of any zoning boundaries affecting the subdivision.
- H. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- I. The location, names, and present widths of existing and proposed roads, highways, 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 road line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the

deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each road shall be included.

- J. A soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the latest revised edition of the Maine Erosion and Sediment Control Handbook: Best Management Practices by the Department of Environmental Protection and the Cumberland County Soil and Water Conservation District. The Board may require review and approval of the plan by the Cumberland County Soil and Water Conservation District.
- K. A plan for the disposal of surface drainage waters prepared by a Registered Professional Engineer, prepared in accordance with the standards contained in Article 8 of the Zoning Ordinance of the Town of New Gloucester, Maine. The latest revised edition of Technical Release 55, Urban Hydrology for Small Watersheds, published by the U.S. Soil Conservation Service, shall be used when the watershed is five acres or less in size. The Board may require review and approval of the plan by the Cumberland County Soil and Water Conservation District.
- L. The width and location of any roads or public improvements shown in the Comprehensive Plan, if any, within the subdivision.
- M. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.
- N. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

- Schools, including busing
- Street maintenance and snow removal
- Police and fire protection
- Solid waste disposal
- Recreation facilities
- Storm water drainage
- Wastewater treatment
- Water supply

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

- O. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
- P. Detailed construction drawings showing a plan view, profile, and typical cross-section of proposed roads in accordance with the standards contained in Article 8 of the Zoning Ordinance of the Town of New Gloucester, Maine.
- Q. For subdivisions involving the transfer of development rights, the TDR Certificate(s) issued by the Town, pursuant to Article 9 of the New Gloucester Zoning Ordinance. [Amended 12/14/2004 Special Town Meeting]
- R. A future road sketch plan shall accompany subdivision applications in order to facilitate orderly development of future road systems. The plan shall show the pattern of existing, currently proposed and possible future roads on the entire property proposed for subdivision. The road plan is not binding; rather it is intended to show potential future road extensions associated with future development.

8.3 Final Approval and Filing.

- A. No plan shall be approved by the Board as long as the subdivider is in violation of the provisions on a previously approved plan.
- B. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A. 4404, and this ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. At the time the Board grants Final Plan 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 insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If information given by the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board may require the Plan to be divided into sections to prevent classroom overcrowding.
- D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised

Final Plan is first submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A. §4404, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any road, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the finding of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Failure to complete construction of a subdivision's public improvements 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 the Code Enforcement Officer place a notice in the Registry of Deeds to that effect.

ARTICLE 9. REVISIONS TO APPROVED PLANS

9.1 Procedure.

An application for a revision to a previously approved plan shall be submitted at least two weeks prior to a scheduled meeting of the Board. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision brings the total number of lots created to five or more within a five year period, the procedures for major subdivision plan approval shall be followed.

9.2 Submissions.

The applicant shall submit a copy of the approved plan, as well as ten copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations.

9.3 Scope of Review.

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

ARTICLE 10. ENFORCEMENT

10.1 Inspection of Required Improvements.

- A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall:
 - 1. Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
 - 2. Deposit with the Municipal Officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection.
- B. If the inspecting official finds upon inspection of the improvements that any of required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc. the subdivider shall obtain permission to modify the plans from the Board.
- D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a town meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the

expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

- G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

10.2 Violations and Enforcement.

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this ordinance.
- B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorneys' fees and court costs if it is the prevailing party.
- E. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- F. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in this ordinance and recorded in the Registry of Deeds.
- G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with this ordinance.

ARTICLE 11. GENERAL STANDARDS

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant

11.1 Conformance with Comprehensive Plan. All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

11.2 Retention of Open Spaces, Buffers and Vegetated Areas and Natural or Historic Features.

- A. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
- B. The Board may require the reservation of between five and ten percent of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the municipal comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.
- C. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
- D. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
- E. Where land within the subdivision is not suitable or is insufficient in amount, or where the applicant prefers, a payment in lieu of dedication shall be calculated at the market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor and deposited into a municipal land acquisition or improvement fund.
- F. The Board may require that the development plans include a landscape plan that will show the wooded areas to be preserved, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.

- G. If the proposed subdivision contains any identified historical or archaeological sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas may be included in the open space, and shall be suitably protected by appropriate covenants and management plans.
- H. Any public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way or may be included in the open space, with provisions made for continued public access.
- I. Where a proposed subdivision abuts the right of way of the Maine Turnpike, a 200 undisturbed, vegetated buffer shall be retained as measured from the edge of the right of way. Subdivision plans shall include appropriate documentation to prohibit clearing, construction of buildings and location of wells and septic systems within the buffer area. If existing vegetation provides an insufficient visual screen, the Board may require the placement of additional vegetation.

11.3 Net Residential Acreage.

- A. The following areas shall be considered unsuitable for development and 100% of the acreage of these areas shall be deducted from the gross land area:
 - 1. Land that is cut off from the main parcel by a road, or by existing land uses and where no means of access can be provided, so that the land is isolated and unavailable for building purposes or common uses.
 - 2. Land situated below the normal high water mark of abutting waterbodies.
 - 3. Land within the 100-year floodplain as identified by Federal Flood Boundary and Floodway Maps or Federal Flood Insurance Rate Maps.
 - 4. Land within a Resource Protection District
 - 5. Land which has been created by filling or draining a pond or wetland.
 - 6. Land area consisting of unreclaimed gravel pits.
 - 7. Very Poorly Drained Soils (see E. below).
 - 8. Land that is covered under existing conservation easements or other similar restrictions.
[Amended 12/14/2004 Special Town Meeting]
- B. The following areas shall be considered marginally suitable for development, and 50% these areas shall be deducted from the balance of A.
 - 1. Poorly Drained Soils and Somewhat Poorly Drained Soils (see E. below).
- C. 15% of the total acreage of the site remaining after subtracting those areas listed in A and B above, shall be deducted as an allowance for roads, whether or not the actual area devoted to roads is greater or less than 15%. However, the 15% deduction shall not be subtracted when there are no roads planned as part of a subdivision, or for TDR Density calculations on sending sites. [Amended 12/14/2004 Special Town Meeting]
- D. No building or structure shall be sited in areas subtracted as 100% deductions as listed in A above. Siting of structures in areas subtracted as 50% deductions as listed in B above shall be

discouraged but shall be permitted where the applicant or developer demonstrates that measures will be taken to minimize erosion, sedimentation, and seasonal wetness, that these areas are stable for the siting of structures, and that proposed subsurface waste disposal systems will comply with the Maine State Plumbing Code.

E. For determination of the very poorly, poorly and somewhat poorly drained soils, the following guidelines shall apply:

1. Soil classifications shall preferably be developed using a high intensity soils map prepared by a registered soils scientist, in accordance with the National Cooperative Soils Survey Classification.
2. In cases where the requirement of a high-intensity soils map is waived, deductions for unsuitable soils shall be determined in the following manner:
 - a. One hundred (100) percent of land areas with a water table within six (6) inches of the surface for three (3) or more months a year shall be deducted. In making this determination, the Planning Board shall consult medium-intensity soils maps, perform site visits, consult experts and review other available information.
 - b. If the applicant wishes to contest the Planning Board's determination of unsuitable soils on the site using the above method, the applicant may submit for the Board's consideration a high-intensity map prepared by a Maine Certified Soils Scientist in accordance with the National Cooperative Soil Survey Classification.

11.4 Blocks. Where road lengths exceed 1,000 feet between intersections with other roads, the Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway constructed in accordance with design standards in Section 8.5.8. Maintenance obligations of the easement shall be included in the written description of the easement.

11.5 Lots.

- A. Except for open space subdivisions, and subdivisions involving the transfer of development rights, all lots shall meet the minimum requirements of the Zoning Ordinance for the zoning district in which they are located. The lot configuration should be designed to maximize access to solar energy on building sites with suitable orientation. [Amended 12/14/2004 Special Town Meeting]
- B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.
- C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.

- D. Wherever possible, side lot lines shall be perpendicular to the road.
- E. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future resubdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
- F. If a lot on one side of a stream, tidal water, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
- G. The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- H. Where a major subdivision abuts or contains an existing or proposed arterial road, no residential lot may have vehicular access directly onto the arterial road. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the arterial road.

11.6 Utilities.

- A. Utilities shall be installed underground except as otherwise approved by the Board.
- B. Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- C. The size, type and location of street lights, electric and gas lines, telephone, and other utilities shall be shown on the plan and approved by the Board.

11.7 Required Improvements. The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

- A. Monuments.
 - 1. Stone monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
 - 2. Stone monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
 - 3. Stone monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, 1/2 inch deep shall locate the point or points described above.
 - 4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation.

B. Water Supply.

1. When a subdivision is to be served by a public water system, the complete supply system, including fire hydrants, shall be installed at the expense of the subdivider.
 - a. The subdivider shall provide a written statement from the servicing water company or district that adequate water for both domestic and fire fighting purposes can be provided without placing an undue burden on the source, treatment facilities or distribution system involved. The subdivider shall be responsible for paying the costs of system improvements necessary to serve the subdivision.
 - b. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the Fire Chief.
2. When the location of a subdivision does not allow for a financially reasonable connection to a public water supply system, the Board may allow the use of individual wells or a private community water system.
 - a. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water.
 - b. The subdivider shall provide adequate and reliable water supply for fire-fighting purposes, such as underground cisterns or fire ponds with dry hydrants, in accordance with the recommendation of the Fire Chief. A hydrant easement deed shall be granted to the municipality granting access to and maintenance of the dry hydrants, if the dry hydrants are not located within a public road.
 1. The Planning Board may waive the requirement for providing adequate water supply only upon a written finding from the Fire Department that a reliable water supply exists within four thousand (4,000) feet (measured along roadways) of the farthest proposed structure in the subdivision and that the Town has easement rights to access such water supply for fire-fighting purposes.
 2. The water supply shall be installed by the subdivider, shall be in working order, and shall be approved by the Fire Chief or his/her designee prior to the issuance of any certificate of occupancy for structures in the subdivision.
 3. All water supplies for fire protection and associated dry hydrants shall meet the performance standards of Section 5.1.32 of the New Gloucester Zoning Ordinance. [amended May 1, 2006]

C. Sewage Disposal.

1. Public system.

- a. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1000 feet of the proposed subdivision at its nearest point. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's collection and treatment system.
- b. The sewer district shall review and approve in writing the construction drawings for the sewage system.

2. Private Systems.

- a. The developer shall submit evidence of soil 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 and the Zoning Ordinance.
- b. A disposal area shall not be permitted on soils or on a lot which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

D. Surface Drainage.

The storm water management plan submitted in accordance with Article 8 of the Zoning Ordinance of the Town of New Gloucester, Maine shall be installed.

11.8 Land Features.

- A. 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.
- B. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.
- C. To prevent soil erosion in shoreline areas, tree cutting in the strip extending one hundred feet inland from the normal high water mark of any waterbody shall be limited in accordance with Sections 5.2.7 and 5.2.9 of the New Gloucester Zoning Ordinance.

11.9 Dedication and Maintenance of Common Open Space and Services.

- A. Unless deeded to the Town of New Gloucester and accepted by the citizens of the Town at Town Meeting, deeded to an appropriate third party, conservation trust, or association, or retained as provided for in Section 5.17 of the Zoning Ordinance, common open space shall be owned in common by the owners of the lots or units in the development Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.

- B. Further subdivision of the common land or its use for other than non-commercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land.
- C. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
 - 1. It shall not be used for future building lots; and
 - 2. A part or all of the common open space may be dedicated for acceptance by the municipality.
- D. The by-laws of the proposed homeowners association or covenant(s) regarding maintenance by an appropriate third party shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.
- E. Covenants for mandatory membership in the homeowners association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.
- F. The homeowners association shall have the responsibility of maintaining the common property or facilities.
- G. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
- I. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

11.10 Construction in Flood Hazard Areas.

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation and in compliance with the New Gloucester Floodplain Management Ordinance. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

11.11 Impact on Ground Water.

- A. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - 1. A map showing the basic soils types.
 - 2. The depth to the water table at representative points throughout the subdivision.

3. Drainage conditions throughout the subdivision.
 4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 5. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a lake, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.
 6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- B. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- C. No subdivision shall increase any contaminant concentration in the ground water, at any on-site well, at any lot line, at the subdivision boundary, and at a distance of 1,000 feet from the potential contaminant source to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water at any on-site well, at any lot line, at the subdivision boundary, and at a distance of 1,000 feet from the potential contaminant source to more than the Secondary Drinking Water Standards.
- D. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- E. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
- F. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

11.12 Traffic Impacts.

- A. The road giving access to the subdivision and neighboring roads which can be expected to carry traffic to and from the subdivision shall have traffic carrying capacity and be suitably improved to accommodate the amount and types of traffic generated by the proposed subdivision. No subdivision shall increase the volume: capacity ratio of any road above 0.8 nor reduce the road's Level of Service to "D" or below.

11.13 Transfer of Development Rights

Subdivisions involving the transfer of development rights pursuant to Article 9 of the New Gloucester Zoning Ordinance shall comply with the following standards.

- A. A note on the recorded plan shall state that this subdivision received development rights pursuant to the Transfer of Development Rights, Article 9 of the Zoning Ordinance.
- B. The Planning Board shall not waive the submission of the hydrogeologic assessment.
- C. Notwithstanding other provisions of the Zoning Ordinance or Subdivision Regulations, the Planning Board may determine contaminant concentration in groundwater at only the subdivision boundary line of a subdivision meeting the other requirements of this performance standard, from a potential contaminant source, without reference to interior lot lines or points 1000' from such source.

ARTICLE 12.

STREET AND STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS (*Repealed at
Special Town Meeting, December 2004*)

ARTICLE 13 PERFORMANCE GUARANTEES

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

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

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

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

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

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

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

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

- A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
- B. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

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

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

13.8 Release of Guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

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

13.10 Improvements Guaranteed. Performance guarantees shall be tendered for all improvements required by Section 11.7 of these regulations and for the construction of the streets.

ARTICLE 14. WAIVERS

- 14.1** Where the Board makes written findings of fact that there are special circumstances, it may waive portions of the submission requirements, the standards, or other requirements, to permit a more practical and economical development, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, the Zoning Ordinance, or these regulations, and provided the criteria of the State Subdivision Law are met.
- 14.2** Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.
- 14.3** In granting waivers to any of these regulations in accordance with Sections 14.1 and 14.2, the Board shall require such conditions as will assure the objectives of these regulations are met
- 14.4** **Waivers to be shown on Final Plan.** When the Board grants a waiver to any of the standards of these regulations, the Final Plan shall indicate the waivers granted and the date on which they were granted.

ARTICLE 15. APPEALS

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