

## ARTICLE VII - SUBDIVISION

### 1. STATEMENT OF PURPOSE

In order to assure the comfort, convenience, safety, health and welfare of the people of Wiscasset, to protect the environment and natural resources, to promote and control development of an economically and socially sound and stable community, the following subdivision regulations and procedures are adopted pursuant to 30-A MRS 4401-4407.

### 2. PROCEDURES FOR SUBDIVISION REVIEW

#### 2.1 PRE-APPLICATION

2.1.1 Prior to submitting an application for approval of the subdivision and the Preliminary Plan, the subdivider or his authorized agent shall appear informally at a regular meeting of the Planning Board to discuss the proposed subdivision.

2.1.2 The subdivider shall present to the Board for informal review and comment, a sketch plan of the proposed subdivision. The sketch plan shall consist of a rough outline of the proposed subdivision, and may be a freehand, penciled sketch of the parcel, showing the proposed layout of streets, lots and other features which may be of assistance to the Board in making its determination. The subdivider shall also locate the proposed subdivision on the land suitability map and the hydrogeological sensitive area map in order to identify possible geological or hydrogeological problems prior to site review and detailed site-specific studies. It should also indicate whether or not the proposed project is within the shoreland zone or within a flood plain zone. [3-90, 3-94]

2.1.3 No binding commitments shall be made between the subdivider and the Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible and what is acceptable.

2.1.4 In order that the Planning Board be more fully informed about the site, the subdivider shall arrange an inspection of the site by a minimum of three members of the Planning Board. The on-site inspection may be conducted at or shortly after the time of submission by the sketch plan. The pre-application phase of the application process will not be considered complete until such inspection has been made.

2.1.5 Within 30 days from submission of a pre-application and sketch plan, and following an on-site inspection, the Planning Board shall submit in writing to the applicant a checklist of the specific information which should be included in the formal application to the Planning Board.

2.1.6 Prior to final approval the date for completion shall be agreed to by the applicant and the Planning Board. The Board shall not extend this date unless the applicant can show hardship or other unusual circumstance prior to the date; when determining these circumstances the Board shall consider strikes, unwarranted delays in

government regulatory approvals, delays in delivery of materials which are not the fault of the applicant, and unforeseen difficulties in construction due to site constraints, etc. [3-88]

2.1.7 If any portion of a subdivision crosses municipal boundaries, the reviewing authorities from each municipality shall meet jointly to discuss the application. [12-89]

2.1.8 If after the initial pre-application the applicant takes no action during a 4-month period towards obtaining final approval the application shall be considered null. [3-88]

## 2.2 ACCEPTANCE OF APPLICATION

2.2.1 When an application is submitted to the Planning Board, it must include a Preliminary Plan and a fee of \$25.00 per lot or unit including rental units up to 5 lots or units and a fee of \$50.00 per lot or unit, including rental units, for more than 5 lots or units. If Site Review is also required, the higher of the Subdivision or Site Review fees shall be charged. Upon receiving the application, the Planning Board shall issue a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. [3-88, 12-89]

2.2.2 If the Planning Board hires one or more state-certified or licensed expert consultants to provide the Board with advice as to whether or not a developer's application, if approved, would comply with the provisions of the subdivision and site review ordinances and applicable state and federal laws relevant to the consultant's expertise, the applicant shall be responsible for payment to the Town of Wiscasset of a sum equal to 50% of the consulting fees charged to the Planning Board. The Planning Board shall not vote on final approval of the application until it has been notified by the Town Treasurer that the applicant's share of the consulting fees has been received. This provision applies whether or not the application is finally approved. [3-89]

2.2.3 The Preliminary Plan shall include: [3-01]

- a. Proposed name or identifying title of the subdivision.
- b. Name and address of record owner, subdivider or developer, and surveyor, planner or designer of the plan. Applicant must have an interest in the site to be developed.
- c. Survey of tract made by a registered land surveyor, or registered engineer to establish reference points showing true north point,

graphic scale and metes and bounds, and date of survey. The plan size shall be not larger than 24" by 36". [9-02]

- d. Names of all property owners immediately adjacent.
- e. Existing buildings, lot lines, street rights-of-way, utility lines and easements, and all planned construction, including but not limited to buildings or other structures, utility lines and easements, parking lots, paved areas; type, location, and extent of temporary and permanent measures for control of erosion, sedimentation, drainage, storm drainage, existing and proposed locations of septic systems and water wells. (See Section 2.3.3.a (water and air pollution) and 2.3.3.e (soil erosion) of this ordinance). [6-89]
- f. Proposed lot lines (with approximate dimensions) and acreage of each lot. [6-89]
- g. Numbers or letters identifying all proposed lots.
- h. Any proposed public street or private road intended to provide access to the lots of the subdivision.
- i. Streams, rivers, brooks, lakes, ponds, wetlands (of any size) wholly or partly within or abutting the subdivision, existing and proposed drainage swales, areas of natural vegetation to be preserved, areas to be cut-and-filled or graded, proposed changes in land surface and vegetation cover. (See Section 2.3.3.e (soil erosion) of this ordinance). [6-89, 12-89]
- j. In addition to the above, the preliminary map shall show present land surface contours and proposed contours at an interval of 5 feet, and distribution of soils as mapped in accordance with The Maine Association of Professional Soil Scientists Standards for Soil Surveys, Class B survey. [6-89]
- k. Any additional information requested by the Planning Board necessary to properly view the subdivision's impact upon the community.

2.2.4 The application shall be made on forms provided for that purpose by the Planning Board.

2.2.5 In addition, the applicant should be aware that he must satisfy the Planning Board that he can meet the criteria set forth in 30-A MRSA 4401-4407 as amended and which are set forth hereafter in Section 2.3.3. Evidence as to each

applicable criterion to be met by the applicant should be included in the Preliminary Plan so as to avoid delay due to an incomplete application.

2.2.6 Within 30 days from receipt of an application, the Planning Board shall notify the applicant in writing either that the application and Preliminary Plan are complete or, if the application or the Preliminary Plan is incomplete, the specific additional material needed to make a complete application and Preliminary Plan.

2.2.7 After the Planning Board has determined that an application is complete; it shall notify the applicant and begin its full evaluation of the proposed subdivision.

## 2.3 EVALUATION OF APPLICATION AND PRELIMINARY PLAN

2.3.1 The Planning Board shall hold a public hearing on the application for subdivision approval within 30 days of notification to the applicant that the application is complete. The Board shall give written notice of the date, time and place of such hearing to the person making the application and also publish such notice in a newspaper of general circulation in Wiscasset at least two (2) times; the date of the first publication to be at least seven (7) days prior to the hearing.

2.3.2 The applicant shall provide notice of the date, time and place of the public hearing by certified mail, return receipt requested and by U.S. First Class mail, to all property owners within 200 feet of the property boundary lines of the original tract or parcel of land, prior to the first dividing, at least fourteen (14) days prior to the hearing. The applicant shall present proof, by submission of copies of return postal receipt(s), to the Planning Board that such action by the applicant to described abutters has occurred. [9-04}

2.3.3 In reviewing any application for subdivision approval, the Planning Board shall consider the following criteria, and before granting approval shall determine that the proposed subdivision:

- a. Will not result in undue water or air pollution. In making this determination it shall at least consider: the elevation of land above sea level and its relation to the flood plains, the nature of soils and subsoils and their ability to adequately support waste disposal, the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations.

Undue water pollution is defined by the State of Maine Primary Drinking Water Standards in groundwater and surface water at any existing or planned well sites within the subdivisions; or at water bodies and wetlands wholly or partially within the subdivisions as defined appropriately in the Subsurface Wastewater Disposal Rules (Chapter 241, State Plumbing Code), in the State Protection

of Natural Resources Act (Section 480-B), and in the permit requirements of the Army Corps of Engineers pursuant to Section 404 of the Federal Clean Water Act; or at any point on the boundary of the Subdivision.

Whether or not pollution will occur shall be determined by hydrogeologic studies utilizing site-specific hydrogeologic, soils, and test data including background nitrate-nitrogen levels, and performed by professionals certified by the State to make such studies. [3-89]

- b. Has sufficient water available for the reasonably foreseeable needs of the subdivision. In subdivisions dependent on groundwater for potable water, for each dwelling unit sufficient water is defined as those well yields at various well depths recommended by the Water Well Drillers Association of Maine as sufficient to supply a typical home. The quantity of water withdrawn from the wells or planned wells of the subdivision shall not exceed an amount that would deprive abutting properties of sufficient groundwater. [3-89]
- c. Quality and potability shall meet State Primary and Secondary Drinking Water Standards. Determination of quantity, quality, and potability shall be based on hydrogeologic studies by State certified professionals using all available information from existing hydrogeologic studies within the Town, from existing wells within the subdivision and neighboring properties, and from drilling records. If available data is insufficient for a technically acceptable determination, the drilling of the necessary test wells is required. [3-89]
- d. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.
- e. Will include soil erosion and sedimentation control measures which shall minimize the area to be stripped of topsoil and vegetation, the amount of erosion and sedimentation during construction, stabilize and protect the land from erosion when complete, prevent off-site erosion and/or sedimentation, and manage stormwater runoff. The control measures, together with the overall plan of the Subdivision shall minimize loss of the annual recharge capacity of the land and minimize increases of annual stream discharges downstream for the Subdivision. The plan for control measures to accomplish the preceding objectives shall be engineered and implemented according to the Soil Conservation Service Environmental Quality Handbook (1986) as amended and Technical Release 55 as amended to meet the requirements of the

site-specific slopes, soils, drainage, and water bodies, including wetlands, of the subdivision. Filling or otherwise altering freshwater and coastal wetlands is not permitted except for construction of the main access road and utility lines if no other route is possible due to topography or other natural features; such road or utility lines shall be located, engineered and built to minimize alteration of the wetland. The plan shall include measures required under subsection 2.3.4.a of this ordinance compatible with the Environmental Quality Handbook. The plan shall designate responsibility for long term maintenance of the control systems. The developer shall prepare individual lots for use in accordance with this subsection so that any further work by the individual lot owner shall be limited to measures that will not negate the effectiveness of the above subdivision plan. The Planning Board shall include these measures on the approved plan to be filed with the Lincoln County Registry of Deeds. The Planning Board may submit the plan to the Soil Conservation District for evaluation as to its compliance with the Environmental Quality Handbook and TR55. If permits are required by the Army Corps of Engineers pursuant to Section 404 of the Clean Water Act and by the Department of Environmental Protection pursuant to the Natural Resources Protection Act (1988) they shall be submitted. [6-89, 3-90]

- f. Will not cause unreasonable highway or public congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed.
- g. Will provide for adequate sewage waste disposal. For each single family dwelling on its own lot and dependent on subsurface wastewater disposal, the septic site shall be located and evaluated in accordance with the Subsurface Wastewater Disposal Rules and Site Evaluation for Subsurface Wastewater Disposal Design in Maine, and the use of that site is mandatory. The subdivision plan shall show the septic site locations and all required setbacks from water bodies and wetlands as defined in Subsection 2.3.3.a above and from tidal waters under the Shoreland Zoning Ordinance, and also from existing wells or planned well locations on the lot and adjacent lots. The application shall include for each septic site the Soil Profile, depth to the mottled zone, Classification and Condition of the soil, and the Disposal Area Rating according to Table 6-1 of the Subsurface Wastewater Disposal Rules. New - system variances are not permitted. The undue pollution definition and hydrogeologic determinations required in Subsection 2.3.3.a above shall govern the number of septic systems and the rate of wastewater discharge permitted in the area of the subdivision

occupied by dwelling lots, the sizes of which shall not be less than allowed under the applicable zoning. [3-89]

- h. The number of single family detached dwellings in a cluster development under Section 3 of this Article, or of dwelling units in a multiple unit building, whether or not in a cluster development, serviced by a single common septic system with in-ground discharge, the total number of such systems within the subdivision, the rate of discharge of such systems, and the location of each such system shall be governed by the undue pollution performance standards and determinations of Subsection 2.3.3.a above in addition to the requirements of the State Plumbing Code. Each common septic system shall be engineered to meet the hydrogeologic condition on the site whether or not its discharge exceeds 2000 per day. In order to enforce the State Plumbing Code and Wiscasset ordinances dealing with in-ground septic systems, the ownership and responsibility for construction and maintenance of a common septic system shall be stated in the subdivision covenants and deeds together with the responsibilities of the developer to repair faulty engineering or construction. [3-89]
- i. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage in municipal services are to be utilized.
- j. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline; significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Town of Wiscasset shall be considered during subdivision review, as well as the watershed of any pond or lake. [6-89, 12-89]
- k. Is in conformance with duly adopted Subdivision Regulations of the Town of Wiscasset, the Wiscasset Building Code and Comprehensive Plan of the Town of Wiscasset. In making this determination, the Planning Board is authorized to interpret these ordinances and plans. [6-89]
- l. The subdivider has adequate financial and technical capacity to meet the above stated standards.
- m. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

- n. For single family and multiple family dwellings the minimum lot size shall be governed by Article II, Section 2.
- o. Mobile homes within a mobile home park may be grouped or clustered on individual sites not less than 75 feet by 100 feet. Total area shall be governed by Article II, Section 2.
- p. The subdivider will determine, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, whether the subdivision is in a flood prone area. If the subdivision, or any part of it, is in such an area the subdivider will determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition of plan approval requiring that principal structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. (See Town of Wiscasset Flood Plain Ordinance). [6-89]
- q. For purposes of protecting and assuring access to direct sunlight for solar energy systems, the Planning Board may prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and setback requirements or other permissible forms of land use control. [6-89]

2.3.4 The Planning Board shall also consider:

- a. **Drainage.** New roads and changes to the site affecting surface water runoff should not result in erosion or collecting of standing water. Such changes should particularly not interfere with the normal drainage of adjoining properties. If swales or relocated brooks are used for drainage, the sides of the resulting cuts must be sloped gently or suitably lined with rocks. The developer shall submit a surface drainage plan showing ditching, culverts, easements and other proposed improvements.
- b. **Traffic Safety.** The location and design of roads and intersections must provide safe, as well as convenient access within the site and on adjacent streets. Lots fronting on main highways should be avoided if alternative layouts are feasible. Minor streets should be laid out in such a way that through traffic will be discouraged.
- c. **Adequate Water Supply.** The source of water for the proposed development must be sufficient in quantity and quality to meet

state or nationally recognized standards. Fire hydrants are to be provided according to National Fire Protection Association standards.

- d. Resources of Developer. Applicants must demonstrate that they have or will have the necessary legal, engineering, construction, and financing arrangements for installing adequate roads, utilities, and landscaping. The Planning Board may require that a bond be posted to assure completion of site development work, as described in Section 2.4.
- e. Impact on Municipal Services. The size and rate of development shall not be such as to create significant adverse effects upon municipal finances and services. These effects would relate to schools; community sanitary and solid waste disposal facilities; water supply, fire protection, road maintenance, off-street parking, existing community recreation facilities, public safety services and local administrative services.
- f. Access to Lots and Adjacent Property. Adequate road access to all lots in the proposed subdivision and to adjoining properties must be assured by the provision and location of roads.
- g. Buffer Strip. The Planning Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.
- h. Covenants and Restrictions. The applicant shall present any covenants and/or restrictions, which he proposes to insert in deeds to lots within the subdivision. The fact that restrictive covenants made apart of the application and inserted in deeds to lots within the subdivision may allow further subdivision of lots, shall in no way imply approval by the Planning Board of any future divisions or changes on the final approved plans. Any changes in the final plan shall be considered a re-subdivision and shall be reviewed in accordance with Section 2.3 of this ordinance.
- i. Additional Rules for Campgrounds or Recreational Vehicle Parks. In addition to Subdivision rules Campgrounds or Recreational Vehicle Parks shall also be in compliance with the "Rules of the Department of Human Services to Tent and Recreational Vehicle Parks and Wilderness Recreational Parks" approved and adopted December 8, 1977 by the Department of Human Services.

2.3.5 Any street or road constructed within a subdivision shall be constructed in accordance with the following minimum procedures:

- a. All streets shall be designed so that they will provide safe vehicular travel and where possible shall conform to existing topography.
- b. Minimum width, grades and sight distances:
  - \* Width of right-of-way: 50'
  - \* Width of traveled way: 20' (excluding shoulders)
  - \* Minimum clear sight distance: 200'
  - \* Minimum grade: .5%
  - \* Maximum grade: 10%
- c. A traveled way with a drainage ditch on either side shall include gravel shoulders 4' feet wide on both sides unless otherwise approved by the Planning Board and the Road Commissioner.
- d. Streets shall be laid out so as to intersect as nearly as possible at right angles and no street shall intersect any other at less than 60 degrees.
- e. Intersecting side streets shall have a 20' minimum radius of curvature on all inside corners.
- f. A dead-end street shall have a turnaround at its end whether or not it is destined to be extended.
- g. The Planning Board and Town Engineer and the major subdivider shall strive for the ideal turnaround; namely, a loop or "T" such that school buses and other large vehicles can reverse direction conveniently and safely. The diameter of the outer edge of the traveled way is the measurement of importance. For difficult terrain this diameter might be most practical at 70 feet. For level and clear areas a diameter of 110 feet would be ideal for the longest school buses.

Although "T's" may be desirable to allow future expansion of the development, the use of "T's" should be minimized unless terrain or other site circumstances warrant. If "T's" are used they shall conform to the following standard. The "T" shall be positioned at the end of the road. The paved or traveled way shall extend 50 feet on both sides of the centerline of the road. The paved width of the "T" shall be at least 20 feet. The right of way shall extend beyond the paved way by 15 feet all around. [3-93]

- h. At all changes in alignment street sidelines shall be connected by horizontal curves. Radii of curves and length of tangents between curves shall be consistent with clear sight distances specified in 2.3.5.b above.
- i. All other changes in slope shall be connected with vertical curves. Length of vertical curves shall be consistent with clear sight distances specified in 2.3.5.b above.
- j. Every traveled way shall center in its right-of-way. Exceptions to this may only be granted by the Planning Board, only in writing and only before the start of construction of the road.
- k. A driveway or private way shall enter the street at the level of the edge of the traveled way. A driveway or private way shall have a slope of less than 10% within the right-of-way.
- l. Monuments shall be set at each point of curvature and angle point on both sides of every street to the extent deemed adequate or necessary by the Town Engineer for street line survey.
- m. Monuments shall be made of reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The monument shall clearly show the registration number or temporary certificate number of the Registered Land Surveyor responsible for the survey. (As per Title 30-A MRSA 4406). [3-88]
- n. Written certification by a registered land surveyor that monuments shown on profile drawings have been accurately set will be required before final acceptance of any street.
- o. All streets shall have adequate facilities for carrying off storm water.
- p. No surface drainage shall be conveyed or directed across a traveled way.
- q. No permanent cellar drains or ground water drains shall be designated to empty onto the surface of a traveled way.
- r. Ditches shall have side slopes no greater than 3:1 and longitudinal slopes no less than 2%, unless otherwise permitted by the Planning Board in writing.

- s. Catch basin and storm drain design shall be subject to approval by the Town Engineer.
- t. Driveway culverts shall be a minimum of 15 inches diameter by 24 feet long in the ditch line where the driveway intersects a street. Culverts other than driveway culverts shall be determined on the basis of estimated runoff from the area served. All culverts shall conform to the State of Maine Department of Transportation Standard Specifications (January 1984 or as may be amended) Section 603 Option III Pipe. All culvert pipe to be used shall be approved and inspected by the Town Engineer prior to installation. [3-87] (Refer to Appendix for cross-sectional diagram)
- u. Underdrains may be required in wet or swampy areas.
- v. Paving or other protection of ditches may be required in locations susceptible to erosion.
- w. A runoff drainage plan shall be submitted. This plan shall show all culverts in the plan and profile view and shall indicate the direction of flow in the ditches and through all culverts. The plan shall be drawn on 23" by 36" Plan Profile paper and drawn to the scale of 1" = 40' horizontal and 1" = 4' vertical. All drainage plans shall indicate the design method used for culvert sizing. [3-87]
- x. All tree stumps, roots, organic matter shall be removed to the full width of the right-of-way. The Planning Board may diminish this requirement after giving due consideration to safety requirements and the attractiveness of the area. Loam shall be removed to the full width of the traveled way, including the shoulders.
- y. The subgrade shall be carefully graded and compacted for approval by the Town Engineer.
- z. Where stability of subgrade is unsatisfactory in wet or swampy areas, an undercut may be required. Undercut backfill material shall conform to the current Standard Specifications of the Department of Transportation. Depth of undercut and backfill shall be sufficient to provide acceptable stability.
- aa. Subgrade fills shall be constructed with materials meeting the requirement standards dealing with common borrow of the Department of Transportation Standard Specifications as amended.

- bb. The gravel surface shall be at least 1'6" deep and shall be compacted to the satisfaction of the Town Engineer or his representative.
- cc. The Planning Board may require more than 1'6" of gravel surface for arterial streets. The builder will be notified of the designation of the street prior to the final approval of the plans.
- dd. Gravel shall be applied in layers not over 8" deep and thoroughly compacted with the addition of water if necessary before placing the next lift.
- ee. The top 6" of gravel shall conform to "Aggregate Subbase" gravel set forth in the Department of Transportation Standard Specifications. Below the top 6" of gravel it shall conform to Gravel Borrow Standards set forth in current Department of Transportation Standard Specifications.
- ff. All streets shall be paved with a minimum 60 mm (2.25 inches) of compacted (90-96%) thickness of bituminous concrete (MDOT 19.0 mm superpave) and 40 mm (1.50 inches) of compacted (90-96%) surface mix (MDOT 12.5 mm superpave). The paved surface shall be a minimum of 6.1 meters (20 feet) in width. This section shall be mandatory, except in minor subdivisions. [3-99]
- gg. All bridges shall be designed by a professional engineer, registered in the State of Maine.
- hh. No wooden bridges or culverts shall be allowed unless approved by the Planning Board, with the advice of the Town Engineer in writing, and only on or before approval of the profile drawings.
- ii. A complete set of plans for any bridge shall be included with the profile drawings.
- jj. All sanitary sewer designs shall be subject to the approval of the Town Engineer and in relation to the master plan. Any street to be accepted shall be served by a sanitary sewer line if said street joins a street served by a sewer main or if the town is having or plans to have the immediate area served by a sewer in the near future.
- kk. Any street to be accepted shall be served by a water main if said street joins a street containing a water main. Size of water main to be acceptable to the Planning Board and the fire department.

- ll. All utility poles shall be located so as not to obstruct drainage ditches.
- mm. All underground utility mains and services to individual lots shall be installed before the gravel surface is placed.
- nn. If sidewalks are planned or required, they shall be at least 4' wide and separated from the traveled way by a planting strip of at least 3' wide.
- oo. All areas, excluding pavement, sidewalks and shoulders, in the right of way shall be loamed, seeded, fertilized and mulched in accordance with the State of Maine Department of Transportation Standard Specifications Sec. 614 through 619 exclusively. (Refer to most recent M.D.O.T. specifications.) [3-87]
- pp. Completion of a road or street to the requirements set forth in Section 2.3.5 shall be accomplished up to the proposed driveway of the lot being sold prior to the sale of that lot.
- qq. In all areas where side slopes exceed or equal a slope of 2:1, a guard rail shall be installed. In areas where the vertical drop from the edge of the pavement to the toe of the existing slope is less than 6', a guardrail may be waived by the Planning Board and the Town Engineer. All guardrail shall conform to State of Maine Department of Transportation Standard Specification Section 606 Type 3b or as amended. (Refer to Appendix for cross-sectional diagram) [3-87]

2.3.6 Whenever a town sewer line exists across a roadway from a proposed subdivision, the developer of the subdivision shall be responsible for providing access to the sewer, and all access shall be made with one crossing of any existing paved road subject to the following requirements:

- a. The existing ground profile will dictate where the new line connects into the existing sewer.
- b. Each house lot will be provided with a tee to connect into the new sewer. Three copies of the swing ties for each tee will be given to the Planning Board.
- c. New sewer pipe shall be a minimum of eight inches in diameter.
- d. No construction across town roads shall occur between December 1st and April 1st.

- e. Specifications for installation of sewer pipe and manhole structure shall be obtained from the Town Engineer.

## 2.4 PERFORMANCE GUARANTEE

2.4.1 Before the Planning Board gives approval of a Final Plan, the subdivider must file with the Planning Board a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. The purpose of this performance guarantee is to ensure completion of all improvements required by the Board. The performance guarantee may be tendered in the form of (1) a certified check payable to the Town Treasurer, (2) a performance bond running to the Town and issued by a surety company acceptable to the Town, or (3) an irrevocable letter of credit acceptable to the Town and with a bank acceptable to the Town. The conditions and amount of such performance guarantee shall be determined by the Planning Board with the advice of the municipal officers and must be approved in its form and execution by the Town's attorney. The amount shall be equal to the total cost of furnishing, installing, connecting, and completing all of the street grading, paving, and storm drainage. Construction of these improvements must be completed within two years of the date of the Final Plan approval. [6-92]

2.4.2 The Planning Board may recommend a maximum extension of 12 months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the municipal officers for official action.

2.4.3 Before a subdivider may be released from any obligation requiring his guarantee of performance, the Planning Board will require certification from the various municipal officers to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (State, Federal and Local codes, ordinance, laws and regulations).

2.4.4 In any subdivision where no more than 5 separate lots are serviced by minor streets and no more than 5 separate lots are to be serviced by applicant-supplied - sewer lines, the Planning Board, at the applicant's request, shall waive the requirements of the above performance guarantees and shall, instead, endorse on the final plan, or any part thereof, that it is approved on the condition that no lot in the subdivision may be sold, and no permit shall be issued for construction of any building on any lot on any street in the subdivision until it shall have been certified in the manner set forth in paragraph 2.4.3 above that all improvements have been made within 2 years of the date of executing such conditional agreement. In addition, whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance by the Board of Appeals from any of the applicable subdivision approval standards, that fact shall be expressly noted on the face of the subdivision plan to be recorded in the Lincoln County Registry of Deeds or, in the case of an amendment if no amended plan is to be recorded, a certificate indicating the name of the current property owner, identifying the property owner, identifying the property by reference to the last recorded deed in its

chain of title and indicating the fact that a variance, including any conditions on the variance, has been granted and the date of the granting, shall be prepared in recordable form and shall be recorded in the Lincoln County Registry of Deeds within 90 days of the final subdivision approval or the variance shall be invalid. No rights may accrue to the variance recipient or his heirs, successors or assigns unless and until the recording is made within the 90 days. The Planning Board must make findings of fact based on the review criteria when considering revisions to a previously approved subdivision plan. [6-89, 12-89, 6-92]

## 2.5 CONFORMANCE

2.5.1 The proposed subdivision shall be in conformance with all pertinent local, state and federal ordinances, statutes, laws and regulations. If the proposed subdivision meets the definition of subdivision as defined in the Site Location Act (Title 38 MRSA, Section 482) the subdivider must secure the approval of the Board of Environmental Protection and the Planning Board. When a proposed subdivision requires approval of the Planning Board and the Board of Environmental Protection, each review may be conducted simultaneously. However, each review will be conducted independently, and the Planning Board may deny approval of the subdivision even though the Board of Environmental Protection has granted an approval under the provision of the Site Location Act.

2.5.2 For a minor subdivision, the requirements of this Article VII are modified in the following specific instances only: [3-97]

- a. In place of the Class B soils survey by a certified soils scientist required in Section 2.2.3.j transfer of the soil boundaries from the Soils Survey of Knox and Lincoln Counties is permitted.
- b. In place of the site-specific hydrogeologic study required in Section 2.3.3.a, a hydrogeologic study based on already mapped soils and topography and using conservative assumptions as to background nitrate-nitrogen levels, recharge rates, septic system nitrate-nitrogen output, and septic system discharges are permitted. A drainage plan is required.
- c. In place of detailed compliance with the Soil Conservation Service Environmental Quality Handbook required in Section 2.3.3.e, other accepted engineering standards may be used provided they meet the objectives of the erosion, sedimentation, and storm water runoff controls of this subsection.
- d. Design requirements for streets required in Section 2.3.5.b, are reduced to a 30' width right-of-way and a 16' width traveled way (excluding shoulders), and the paving requirement in Section 2.3.5

ff is eliminated. All other requirements of this section 2.3.5 must be met. [3-97]

- e. Design requirements for turnarounds required in Section 2.3.5g may be eliminated altogether if the layout is conducive to school buses meeting students at the entrance to the minor subdivision. [3-93]

### 3. CLUSTER HOUSING REGULATIONS

#### 3.1 STATEMENT OF PURPOSE

The purpose of this Section shall be to encourage housing development that will result in:

- \* Open space and recreation areas.
- \* A variety and choice of housing.
- \* Land use that will encourage choices in the type of environment and dwelling units that will be a long-term asset to the town.
- \* Efficient use of the land, with small networks of utilities and streets and municipal services.
- \* A more creative use of the topography to save lands that should not be developed and the preservation of the existing landscape features to the greatest extent possible.
- \* Diversity and originality in lot layout and individual building, street, parking layouts.

#### 3.2 PERFORMANCE STANDARDS

Planned unit developments / cluster developments shall meet all the following criteria:

3.2.1 All planned unit developments / cluster development shall meet the requirements for a residential subdivision relating to layout, setbacks, frontages, and areas.

3.2.2 The minimum area of land in a planned unit development/ cluster development shall be 5 acres.

3.2.3 Each building shall be an element of an overall plan for site development, which plan shall identify the location of all proposed roads, structures, parking areas, footpaths, common open space, and private yard space related to individual dwelling units. Only developments having a total site plan for structures will be considered. In respect to the placement of buildings and treatment of spaces, paths, roads, service and

parking the developer shall take into consideration all requirements of this section and of other relevant sections of this Ordinance.

3.2.4 The maximum net residential density (i.e., the number of dwellings per acre, excluding roads) allowable in planned unit/cluster developments shall be calculated on the basis described in the table below. For example, in developments where sewer service is not being provided, all of the "well-drained" and "moderately well-drained" land may be included in density calculations, plus half of the "poorly-drained" land.

-----  
 Land Which May be Included as "Suitable Land"  
 When Calculating Net Residential Density.  
 -----

	on sewer	not on sewer
excessively drained, well-drained and moderately well-drained	100%	100%
poorly drained*	75%	50%
very poorly drained*	40%	-
slopes greater than 33%	50%	-
borrow pits	67%	33%

Exclude all land under Article II Section 2.10 [3-90]  
 -----

\* Soil classification by U.S. Soil Conservation Service. All "poorly" and "very poorly" drained soils are unsuitable for on-site sewage disposal, under the State Plumbing Code.

3.2.5 The minimum required space between multiple and/or single units shall be the equivalent of the height of the tallest unit.

3.2.6 A setback of at least 50 feet shall be required along existing road frontage, and access to lots in the development shall be limited to the interior road system.

3.2.7 The total area of open space in the development shall equal or exceed the area to be used for dwelling units.

3.2.8 If the development is for single family detached homes the lot size shall not be reduced to less than 1/2 acre.

3.2.9 No building or structure shall be located within 20 feet of any abutting property line.

3.2.10 All utilities shall be underground.

3.2.11 Individual lots, buildings, streets and parking areas shall be designed and situated so that stream beds, aquifers, rock outcroppings, trees of a significant size (over 18" in diameter), be included in the common open space.

3.2.12 In order to determine the maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be included in net density calculations (according to the table) less the land needed for roads, shall be divided by the minimum lot size normally required in the District, except for Elderly Congregate Housing (See Article II, BUILDING LAWS, section 2.15). [3-01]

3.2.13 No single group of dwellings which are attached either horizontally or vertically shall contain more than four (4) dwelling units except for Elderly Congregate Housing (See Article II, BUILDING LAWS, section 2.15). [3-01]

3.2.14 The extent of soil types in the six categories listed in the table shall be certified by a Registered Soil Scientist licensed in the State of Maine, on a high-intensity soil survey map.

3.2.15 No dwelling unit shall be constructed on soil classified as being "very poorly" drained.

3.2.16 Where a planned unit development or cluster development abuts a watercourse or water body, a portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

3.2.17 All dwelling units in a planned unit development or cluster development shall be connected to a common water supply and distribution system, either public or private, at no expense to the Town of Wiscasset, except for Elderly Congregate Housing (See Section 3.2.20 below). [3-01]

3.2.18 All structures with required plumbing in a planned unit development or cluster development shall be connected to the existing public sanitary sewer system, if available, or as permitted in Subsection 2.3.3.h above. [3-89]

3.2.19 Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development.

3.2.20 Any Elderly Congregate Housing shall be connected to public water and sewer at no expense to the Town of Wiscasset. [3-01]

### 3.3 DEDICATION AND MAINTENANCE OF COMMON OPEN SPACE

3.3.1 All common land for recreational or conservation purposes only shall be owned jointly or in common by the owners of the dwelling units by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the Town of Wiscasset.

3.3.2 Further subdivision of common land or its use for other than non-commercial recreation or conservation, 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.

3.3.3 The common open space(s) shall be shown on the development plan with appropriate notation on the face thereof to indicate that it shall not be used for future building lots.

3.3.4 The use of common open space shall be limited to low-intensity recreation or other passive outdoor living purposes such as nature trails, and for preserving the natural features of the site, wildlife habitats and aquatic habitats. Such uses shall not include parking areas, swimming pools, tennis courts or similar recreation development which requires any manmade structures or addition of any non-natural materials such as but not limited to asphalt, cement, etc. In addition, the use of motorized recreational vehicles shall be strictly forbidden in order to preserve the natural features of the land.

3.3.5 If any or all of the common space is to be reserved for use by the residents, the bylaws of the proposed neighborhood association shall specify maintenance responsibilities and shall be submitted to the Planning Board prior to the Final Plan Approval.

3.3.6 Covenants for mandatory membership in the association setting forth the owner's rights and interest and privileges in the association or trust and the common land shall be reviewed by the Planning Board and included in the deed for each lot or dwelling.

3.3.7 This neighborhood association shall have the responsibility of maintaining the common open space(s).

3.3.8 The association shall levy annual charges against all dwelling owners to defray the expenses connected with the maintenance of open space, neighborhood recreational facilities and Town assessments.

3.3.9 The developer or subdivider shall maintain control of such open space(s) and be responsible for their maintenance until development sufficient to support the association has taken place or, alternatively, the objectives of clustering have been met. Such determination shall be made by the Planning Board upon request of the neighborhood association or trust or the developer or subdivider.

3.3.10 Owners of multifamily rental developments are responsible for maintenance of common open space areas.

#### 4. PLANNING BOARD DECISION AND FINAL PLAN

4.1 The Planning Board shall, within 30 days of a public hearing, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed subdivision, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in Title 30-A MRSA Sections 4401-4407, and to preserve the public's health, safety and general welfare. In all instances, the burden of proof shall be upon the subdivider. The order shall be in writing and shall specifically state reasons for denying, accepting, or modifying the proposed subdivision and shall be sent to the applicant and adjacent property owners by registered mail, return receipt requested.

4.2 Upon receiving approval of the Preliminary Plan and the application, the applicant shall submit to the Board a Final Plan within 6 months. Failure to submit the Final Plan within 6 months of acceptance or modification of the Preliminary Plan shall require the submission of a new subdivision application.

4.3 The Final Plan shall consist of an original plus five copies of one or more maps or drawings which shall be printed or reproduced in a manner suitable for filing in the Registry of Deeds and shall be prepared by a registered land surveyor or registered engineer and certified. Space shall be reserved thereon for endorsement by all appropriate agencies. The Final Plan shall show:

4.3.1 All of the information presented on the Preliminary plan and any amendments thereto suggested or required by the Planning Board.

4.3.2 The name, registration number and seal of the land surveyor or engineer who prepared the plan.

4.3.3 Street names and lines, pedestrian ways, lot easements, and areas to be reserved for or dedicated to public use.

4.3.4 Sufficient data acceptable to the Town Engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. Where practical, these should be tied to reference points previously established.

4.3.5 The length of all straight lines, the deflection angles, radii, length, or curves and central angles off all curves tangent distances, profile elevations, and tangent bearings for each street. Applicant shall provide for placement of permanent-reference monuments at not less than 1000' or sight distance from one to another, whichever is less.

4.3.6 By proper designation, all public open space for which offers of dedication are made by the subdivider and those spaces to which title is reserved by him.

4.3.7 Lots and blocks within the subdivision to be plainly numbered.

4.3.8 Permanent reference monuments shown thus: "X".

4.3.9 A soil suitability analysis for each lot by a qualified soil engineer, if on-site septic sewage disposal is anticipated.

4.4 If the Final Plan does not deviate from the Preliminary Plan as approved, and the soils suitability analysis meets the requirements of the State Plumbing Code, a majority of the Board shall within 30 days from receipt of the Plan, indicate its approval by signing the plan on its face and issuing a final written order approving said plan with or without conditions.

4.5 In the event the Final Plan deviates from the Preliminary Plan as approved, the Planning Board may request that a revised plan be submitted or may consider the deviant plan to be a new Preliminary Plan and proceed to review the same pursuant to section three.

4.6 The Planning Board will file the original and one copy of the approved Final Plan with the County Registry of Deeds. One copy will be retained in the municipal files and one copy filed with the Town Clerk.

4.7 Approval and recording of a Final Plan does not indicate town acceptance of any street, easement or other open space.

4.8 If a proposed resubdivision occurs after final subdivision plans have been approved and recorded or after the hearing on the preliminary subdivision plan, a new final plan must be submitted. If the Planning Board feels that the change is minor in nature, does not change the overall nature of the subdivision and does not affect the neighborhood, a public hearing may be waived.

## 5. TIME REQUIREMENTS FOR PROJECT COMMENCEMENT AND COMPLETION

5.1 The Subdivider shall furnish, install, connect, and complete all of the street grading, paving, storm drainage and utilities or other improvements specified on the Final Plan as approved by the Planning Board. [3-87]

5.2 If the Subdivider fails to start within one year or fails to complete within two years the specifications on the Final Plan as noted in paragraph 4.3.1, the subdivider shall then be required to submit a New Application according to Section 2, PROCEDURES FOR SUBDIVISION REVIEW, of this Ordinance.

The requirements of all ordinances enacted or amended after the date of Final Plan Approval shall apply to the New Application and Preliminary Plan. [3-87]

- 5.3 Prior to the first sale or lease of property the developer shall meet with the Planning Board to review the requirements of paragraph 4.3.1 above. [3-87]

## 6. ENFORCEMENT

- 6.1 No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the Planning Board and recorded in the Lincoln County Registry of Deeds.
- 6.2 Any person, firm, corporation or other legal entity who sells, leases, develops, builds upon or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved as required by this section shall be punished by a fine of not more than \$1,000 for each such offense. Each month that a violation exists after notification of a violation shall constitute a separate offense.

## 7. VALIDITY/SEVERABILITY CLAUSE

The invalidity of any provision of this ordinance shall not invalid