

SUBDIVISION ORDINANCE
OF THE
TOWN OF WINDSOR, MAINE

ENACTED: Adopted Annual Town Meeting June 16th, 2007

CERTIFIED BY: _____
Name

Title

Affix Seal

WINDSOR SUBDIVISION ORDINANCE

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Date of Initial Enactment: __June 16, 2007__

Amendments:

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ARTICLE 1 – AUTHORIZATION FOR SUBDIVISION REVIEW

1.1 Purpose.

The purpose of this Ordinance is:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions, pursuant to 30-A M.R.S.A. §4401 et seq.
- B. To assure new development in the Town of Windsor meets the goals and conforms to the policies of the Windsor Comprehensive Plan.
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of Windsor.
- D. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures.
- E. To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality.
- F. To promote the development of an economically sound and stable community.

1.2 Legal Authority.

This Ordinance has been prepared in accordance with the provisions of 30-A M.R.S.A. §4403 under the home rule authority of the Town of Windsor. This Ordinance shall be known and may be cited as "Subdivision Ordinance of the Town of Windsor, Maine."

1.3 Repeal of Prior Ordinance.

The Subdivision Regulations of the Town of Windsor, Maine as last amended on March 16, 2002 are hereby repealed and replaced with the Subdivision Ordinance herein.

1.4 Amendments.

This Ordinance shall be amended only by vote of the Windsor Town Meeting (regular or special session). A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven (7) days in advance of the hearing.

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1.5 Statutory Review Criteria.

When reviewing any application for a subdivision, as defined by Article 3, the Windsor Planning Board shall find that the criteria for approval of subdivisions expressed in 30-A M.R.S.A. §4404 have been met before granting approval. As of the date of adoption of this Ordinance, the criteria are:

The proposed subdivision:

- A. Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:
 - 1. The elevation of the land above sea level and its relation to the flood plains;
 - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - 3. The slope of the land and its effect on effluents;
 - 4. The availability of streams for disposal of effluents; and
 - 5. The applicable State and local health and water resources rules and regulations.
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision.
- C. Will not cause an unreasonable burden on existing water supplies.
- D. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to 23 M.R.S.A. §704 and any rules adopted under that section.
- F. Will provide for adequate sewage waste disposal.
- G. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized.
- H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- I. Is in conformance with this Ordinance, other municipal ordinances as applicable, and the Windsor Comprehensive Plan. In making this determination, the Board may interpret these ordinances and plans.

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- J. The developer has adequate financial and technical capacity to meet the standards of this section.
- K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in 38 M.R.S.A. §§435-490, or within 250 feet of tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
 - 1. When lots in a subdivision have frontage on the Sheepscot River or the West Branch of the Sheepscot River, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.
 - a. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore; and
 - b. The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, 38 M.R.S.A. §§435-449 (mandatory shoreland zoning).
- L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- M. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, if the subdivision, or any part of it, is in a flood prone area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
- N. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.
- O. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in 38 M.R.S.A. §480-B(9).
- P. The proposed subdivision will provide for adequate storm water management.
- Q. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in 38 M.R.S.A. §480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

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- R. 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.
- S. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- T. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S.A. §8869(14). If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to 32 M.R.S.A. §§5501-5516. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in 12 M.R.S.A. §8868(6) and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

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ARTICLE 2 – ADMINISTRATION OF THIS ORDINANCE

2.1 Administration.

- A. The Planning Board of the Town of Windsor, hereinafter called the “Board,” shall administer this Ordinance.
- B. The provisions of this Ordinance shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Windsor.

2.2 Appeals of Decisions Under this Ordinance.

- A. The Board of Appeals established under the *Board of Appeals Ordinance For the Town of Windsor, Maine* enacted on June 17, 2006, shall have the power to hear and decide appeals in accordance with the provisions set forth below.
- B. Powers and Duties of the Board of Appeals.
 - 1. The Board of Appeals shall have the following powers as they relate to this Ordinance:
 - 2. Administrative Appeals: To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision or determination made in writing by the Code Enforcement Officer or Planning Board in the administration or enforcement of this Ordinance.
 - 3. Variance Appeals: A variance may be granted by the Board of Appeals only where strict application of the ordinance, or a provision thereof, to the petitioner and his property would cause undue hardship. The words “undue hardship” are used in this subsection to mean:
 - a. That the land in question cannot yield a reasonable return unless a variance is granted;
 - b. That the need for a variance is due to the unique circumstances of the property and not to the general conditions of the neighborhood;
 - c. That the granting of a variance will not alter the essential character of the locality; and
 - d. That the hardship is not the result of action taken by the applicant or prior owner.

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C. Procedures.

1. Application and Hearing.
 - a. An appeal shall be taken within thirty (30) days of the date of the order, requirement, decision or determination appealed from, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement;
 - b. Upon receiving an application for an appeal from a decision of the Code Enforcement Officer, the Code Enforcement Officer shall transmit to the Board of Appeals all of the papers relating to the action taken by the Code Enforcement Officer. Upon receiving an application for an appeal from a decision of the Planning Board, the Code Enforcement Officer shall cause all of the papers constituting the record of the Planning Board proceeding to be transmitted to the Board of Appeals; and
 - c. The Board of Appeals shall hold a public hearing on an appeal within thirty-five (35) days of the Town's receipt of the written application.
2. Decision by Board of Appeals.
 - a. A majority of the Board of Appeals shall constitute a quorum for the purpose of deciding an application. A member who abstains shall not be counted in determining whether a quorum exists;
 - b. The concurring vote of a majority of the members of the Board of Appeals present and voting shall be necessary to reverse an order, requirement, decision, or determination of the Code Enforcement Officer or Planning Board. The applicant shall have the burden of proof. The Board of Appeals may reverse or modify a decision of the Code Enforcement Officer or Planning Board only if it finds an error of law, misinterpretation of this Ordinance or misapplication of the law to the facts. If the Board of Appeals reverses or modifies a decision of the Code Enforcement Officer or Planning Board, the Board of Appeals shall remand with instructions for such further action as may be necessary to effect a final disposition of the matter;
 - c. When the Board of Appeals reviews a decision of the Code Enforcement Officer, the Board of Appeals may receive and consider evidence and testimony and oral or written argument. When the Board of Appeals reviews a decision of the Planning Board, such review is limited to the record of the proceedings before the Planning Board and the Board of Appeals shall not receive or consider any evidence which was not presented to the Planning Board, but the Board of Appeals may receive and consider oral or written argument. If the Board of Appeals determines that the record of the Planning Board proceedings is not adequate, the Board of Appeals may remand the matter to the Planning Board for additional fact finding; and
 - d. The Board of Appeals shall state the reasons and basis for its decision, including a statement of the facts found and conclusions reached by the Board, and shall cause such statement to be included in the written record of the Board's proceedings. The Board shall cause written notice of its decision to be mailed or hand-delivered to the applicant within seven (7) days of the Board's decision.

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D. Appeal to Superior Court.

Any aggrieved party who participated as a party during the proceedings before the Board of Appeals may take an appeal to Superior Court in accordance with State laws within forty-five (45) days from the date of the decision of the Board of Appeals.

2.3 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. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No unit in a multi-family or commercial development shall be occupied before the street upon which the unit is accessed is completed in accordance with this Ordinance.
- G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of 30-A M.R.S.A. §4452.

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ARTICLE 3 - DEFINITIONS

In general, words and terms used in this Ordinance shall have their customary dictionary meaning. Any word or term defined in the Windsor Shoreland Zoning Ordinance shall have the definition contained in that Ordinance. Other words and terms used herein are defined as follows:

Appeals Board: The Board of Appeals of the Town of Windsor.

Applicant: The individual, partnership or corporation applying for subdivision approval under this Ordinance.

Board: The Planning Board of the Town of Windsor.

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the Town in return for the provision of permanent open space.

Common Open Space: Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements typically used for maintenance and operation of the open space, such as for outdoor recreation.

Comprehensive Plan: The Town of Windsor's adopted Comprehensive Plan.

Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include but are not limited to retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, recreational or open space use; protecting natural resources; or maintaining air or water quality.

Density: The number of dwelling units per acre of land.

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

Direct Watershed of a great pond: That portion of the watershed which drains directly to a great pond without first passing through an upstream great pond. Watershed boundaries are delineated in the Comprehensive Plan. Due to map scale there may be small inaccuracies in the depiction of the watershed boundary. Where there is a question as to exact location of a watershed boundary, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water

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with higher BOD5 (i.e. biological oxygen demand) and total suspended solids concentrations than domestic waste water.

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

Flood Prone Area: Any land area adjacent to a river, stream, wetland, or other surface water body on which floodwaters for a flood that, on the average, has a one percent chance of occurring in any given year may be expected to accrue.

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

Great Pond: Any body of water which in its natural state has a surface area in excess of ten acres, and any body of water artificially formed or increased which has surface area in excess of thirty acres.

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

Mobile Home Park: A parcel of land under unified ownership on which is proposed to be placed three or more mobile homes which may or may not be owned by the landowner.

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

Peak Hour Volume: A measurement of the number of vehicles entering and exiting a subdivision during the heaviest diurnal traffic hour of the adjoining street.

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

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

Professional Engineer: An engineer registered to practice in the State of Maine.

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Public Improvements: Structures or facilities required by this Ordinance which benefit multiple lots owners or the general public, including, but not limited to, streets, sidewalks, parking lots, storm drainage or retention structures, utility service, public water or sewer lines, and recreation facilities.

Public Water System: A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

Recording Plan: An original of the Final Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

Sight Distance: The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. The term is used in this Ordinance as a reference for unobstructed road visibility.

Sketch Plan: Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

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

Subdivision: The term shall be defined as in 30-A M.R.S.A. §4401(4), as amended, and including land or buildings subdivided for commercial use, either entirely or in part.

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

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

Winter Road Maintenance: Snow removal, application of sand and salt to roadways to facilitate safe travel in icy conditions, and the addition and grading of gravel to unpaved roads to allow safe vehicle passage when seasonal conditions have caused the road surface to deteriorate.

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ARTICLE 4 – PLANNING BOARD PROCEDURES

4.1 Meeting Procedures.

- A. In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than two (2) working days in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices.
- B. Applicants shall request to be placed on the Board's agenda by contacting the Town Office. Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes.
- C. Notwithstanding Section 4.1(B), the Board shall take no action on any application not appearing on the Board's written agenda.
- D. The Board may employ a “checklist” to assist in the administration of this ordinance. That checklist and subsequent entries are intended to be part of the official record of the application.

4.2 Waivers Authorized.

- A. Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, or that the application, in the Board’s judgment is simple and minor in nature, it may waive portions of the submission requirements. The burden is on the applicant to demonstrate that the waiver of the required submission will not affect compliance with the review criteria and performance standards of this Ordinance, and that the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this Ordinance.
- B. 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 public improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities in proximity of the proposed subdivision, it may waive the requirement for such improvements, provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this Ordinance.

When the Board grants a waiver to any of the improvements required by this Ordinance, the Final Plan to be recorded at the Registry of Deeds shall indicate the waivers granted and the date on which they were granted.

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- C. The Board may allow an applicant to combine the Final Plan and Preliminary Plan application steps into one procedure, upon making all of the following written findings of fact:
1. No new streets are proposed;
 2. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a “Permit by Rule;” and
 3. The application contains all applicable submissions required for both the preliminary and Final Plan steps, except for those items for which a waiver of a required submission has been requested and granted.
- D. Waivers may only be granted for submission requirements, required improvements, and review procedures. Waivers may not be granted for review criteria. When granting waivers, the Board shall set any conditions deemed necessary so that the purposes of this Ordinance are met.

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ARTICLE 5 – SKETCH PLAN SUBMISSION

5.1 Purpose.

The purpose of the sketch plan is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial time and money by the applicant.

5.2 Sketch Plan Meeting.

- A. The applicant shall present the Preapplication Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.
- C. If an on-site inspection is to be held, a date shall be set at the sketch plan meeting. Any on-site inspection shall be held prior to submission of a Preliminary Plan.
- D. At the time of the sketch plan meeting the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the sketch plan meeting and subsequent actions shall be maintained in the file.

5.3 Sketch Plan Submissions.

- A. Six (6) copies of the sketch plan and all supporting materials must be submitted at least two (2) working days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which does not have to be an engineered drawing and may be a freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. Notwithstanding the foregoing, the Planning Board shall retain the right to request that the applicant provide an engineered drawing of the sketch plan.
- B. The sketch plan shall be supplemented with a written narrative, with general information to describe or outline the existing conditions of the site and the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located.

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- C. The sketch plan and narrative shall be accompanied by a copy of a portion of the U.S.G.S. topographic map or GIS contour data layer of the area showing the outline of the proposed development, unless the development will be less than ten (10) acres in size; and a copy of that portion of the Kennebec County Soil Survey or GIS soils data layer covering the proposed subdivision, showing the outline of the proposed development. The Board may request additional submissions at the time of the sketch plan.

5.4 On-Site Inspection Procedure.

- A. Prior to an on-site inspection by the Board, the applicant shall place "flagging" at the centerline of any proposed street, and at the approximate intersections of the street centerlines and lot corners. If the proposed project includes buildings, the approximate corners of building footprints shall be identified on the ground.
- B. The Board may choose to re-schedule on-site inspections when there is inclement weather or snow on the ground.
- C. On-site inspections must be posted as required by 1 M.R.S.A. §§401-410, and the public must be allowed to accompany the Board. Minutes shall be taken in the same manner as for regular meetings.

5.5 Review not Binding.

The Board shall take no action regarding approval or denial of the sketch plan. The sketch plan meeting, the submittal or discussion of the sketch plan, or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of 1 M.R.S.A. §302.

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ARTICLE 6 - PRELIMINARY PLAN APPLICATION

6.1 Procedure.

- A. Within six (6) months after Board review of the sketch plan, the applicant shall submit an application for approval of a Preliminary Plan. The application for approval of a Preliminary Plan shall be submitted at least seven (7) working days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or by hand to the Town Office. Failure to submit an application within six (6) months shall require resubmission of the sketch plan to the Board. The Preliminary Plan shall approximate the layout shown on the sketch plan, taking into account comments and suggestions made during review of the sketch plan.
- B. Fees:
 1. All applications for Preliminary Plan shall be accompanied by a non-refundable application fee. A fee schedule will be established and may be amended from time to time by the Board of Selectmen.
 2. For all proposed subdivisions of ten (10) or more lots or units, including prior phases or abutting parcels developed by the same owner, the applicant shall also pay the amount of \$250 per lot or unit, to be deposited in a special escrow account designated exclusively for the use of the Town for hiring independent consulting services to review the technical submissions associated with the application, and to ensure compliance with criteria herein. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. Any balance in the escrow account remaining after a decision on the Final Plan application by the Board shall be returned to the applicant.
- C. The Board shall not review any Preliminary Plan application in the absence of the applicant or applicant's representative. Should the applicant or representative fail to attend a scheduled meeting, the Board shall reschedule review for its next regular meeting.
- D. Within three (3) working days of the receipt of the Preliminary Plan application:
 1. The Board, or its designee, shall:
 - a. Issue a dated receipt to the applicant; and
 - b. Notify the clerk and the Planning Board of neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
 2. The applicant shall notify in writing by Certified Mail, Return Receipt Requested, all owners of property within five hundred (500) feet of the proposed subdivision that an application has been submitted, specifying the location of the proposed subdivision and including a general description of the project.

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- E. Within thirty (30) days of the receipt of the Preliminary Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application. Substantive review of the Preliminary Plan shall not begin until the Board has determined that the application is complete.

- F. Upon determination that a complete application has been submitted, the Board shall notify the Town Manager, Road Supervisor, and Fire Chief of the proposed subdivision, describing the number of dwelling units proposed, length of roadways, and the size and construction characteristics of any multifamily, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.

- G. The Board shall hold a public hearing on all preliminary applications.
 - 1. The Board shall hold a hearing within thirty-five (35) days of determining that it has received a complete application.

 - 2. The Town shall publish a notice of the date, time and place of the hearing in a newspaper of daily, local circulation at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing. In addition, notice shall be posted in at least three (3) prominent places within the Town of Windsor at least seven (7) days prior to the hearing.

 - 3. The applicant shall notify all owners of property within five hundred (500) feet of the boundaries of the proposed subdivision by Certified Mail, Return Receipt Requested, at least ten (10) days prior to the hearing. The applicant shall provide return receipt cards to the Board at the time of public hearing.

- H. Within thirty (30) days after the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

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- I. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
 - 1. The specific changes which it will require in the Final Plan;
 - 2. The character and extent of required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
 - 3. The construction items for which cost estimates and performance guarantees will be required prior to approval of the Final Plan.

- J. Approval of a Preliminary Plan shall not be construed as intent to approve the Final Plan, but shall be deemed an expression of approval of the design as a guide to the preparation of the Final Plan. Prior to the approval of the Final Plan, the Board may require additional information be submitted or changes made as a result of further study of the proposed subdivision or as a result of new evidence received.

6.2 Submissions for Preliminary Plan.

- A. All items required to be submitted as part of a Preliminary Plan application shall be submitted, or waivers requested, prior to determination by the Board of a completed application. If waivers are desired, the applicant must submit a written waiver request for action by the Board pursuant to Section 4.2. Eight (8) copies of all materials shall be delivered to the Town Office at least seven (7) days prior to a regularly scheduled Planning Board meeting in order for the application to be placed on the Board's agenda.

The requirements listed below shall not be construed to limit the Board's discretion to require additional materials, as necessary, in order to determine whether the criteria listed in Section 1.4 are met.

- B. The following items are required for all applications:
 - Town of Windsor Preliminary Plan Application Form.
 - A location map, drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the municipality. The location map shall show:
 - Locations and names of existing and proposed streets.
 - Boundaries and designations of any shoreland zoning districts or watersheds of great ponds.
 - 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.
 - All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the Comprehensive Plan or by the Maine Historic Preservation Commission as sensitive or likely to contain such sites.

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- Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
- A copy of the most recently recorded deed for the parcel, together with all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five (5) years, as required by 30-A M.R.S.A. §4401.
- A copy of any proposed lease agreements, covenants, or deed restrictions intended to cover all or part of the lots or units in the subdivision.
- An indication of the type of sewage disposal to be used in the subdivision. Test pit analyses, together with a map showing the location of all test pits dug on the site, prepared by a Licensed Site Evaluator or Certified Soil Scientist, shall be provided. If any form of commercial, shared, or community sewage disposal system is proposed, a layout and report prepared by a professional engineer shall be submitted.
- An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by a public water supply, within the definition expressed in 22 M.R.S.A. §2601, a report detailing the establishment and operation of the proposed system, prepared by a professional engineer, shall be submitted.
- Preliminary plan. The Preliminary Plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read.
 - The plan must contain the date of preparation, north point, and graphic map scale.
 - The plan must show the names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners.
 - The plan shall show wetland areas, regardless of size.
 - The plan shall show the number of acres within the proposed subdivision, the location of property lines, existing buildings, and other essential existing physical features.
 - The plan shall show the shoreland zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
 - The plan shall show or reference the location, names, and widths of existing streets, rights-of-way, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
 - The plan must show all proposed lot lines with approximate dimensions and lot areas. The plan must identify any parcels of land proposed to be dedicated to public use and the conditions of dedication, as well as the

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location of any open space or common areas to be created.

C. Circumstantial Submissions Requirements. Based on specific circumstances within a proposed subdivision, the Board shall require additional information to be submitted. These specific circumstances are identified as follows:

- If any streets or commercial parking and entrance areas are proposed to be constructed, the plan or accompanying pages shall show the location, profile and cross-section of the proposed improvements in sufficient detail for the Board to gauge compliance with the performance standards herein.
- If any open space or common areas or facilities are proposed to be created, a general description of proposed ownership, improvement, and management.
- If any portion of the subdivision will be in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- If any portion of the subdivision will be located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program, or as a potential deer wintering area or other critical habitat, the application shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- If any part of a subdivision will be located in an area identified on the Maine Geological Survey *Map of Significant Sand and Gravel Aquifers*, and the subdivision has an average density of more than one dwelling unit per 100,000 square feet or is a commercial subdivision, the application shall include a hydrogeologic assessment prepared by a certified geologist or registered professional engineer experienced in hydrogeology. The assessment shall be conducted in accordance with the provisions of Section 10.1 of this Ordinance.
- If the proposed subdivision will contain commercial uses, an estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent edition of the *Trip Generation Manual*, published by the Institute of Transportation Engineers.
- If a subdivision will create 5,000 square feet or more of commercial floor area or fourteen (14) or more residential lots or units, a traffic impact analysis, prepared by a registered professional engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

D. The Planning Board may require any additional information not listed above, when the Board decides that such information is necessary to determine whether the review criteria listed in Section 1.4 of this Ordinance have been met.

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ARTICLE 7 - FINAL PLAN APPLICATION

7.1 Procedure.

- A. Within six (6) months after the approval of the Preliminary Plan, the applicant shall submit a Final Plan for Board approval.
 - 1. The submission shall consist of eight (8) copies of an application for approval of the Final Plan with all supporting materials.
 - 2. Submission shall be made at least seven (7) days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or delivered by hand to the Town Office.
 - 3. If the application for the Final Plan is not submitted within six (6) months after Preliminary Plan approval, the Board may require resubmission of the Preliminary Plan.
 - 4. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any changes required by the Board as a condition of approval.
- B. If an applicant cannot submit the Final Plan within six (6) months due to delays caused by regulatory bodies or other reasons, the applicant may request an extension.
 - 1. A written request for an extension to the filing deadline shall be filed with the Board prior to the expiration of the six month period.
 - 2. The Board shall grant the requested extension if it finds that the applicant has made due progress in preparation of the Final Plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.
 - 3. Any extension granted shall specify the time period for which it is granted.
- C. No separate fee will be required for a Final Plan application. The Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the Final Plan application.
- D. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where applicable:
 - i. Maine Department of Environmental Protection, under the Site Location of Development Act;
 - ii. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed;

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- iii. Maine Department of Human Services, if the applicant proposes to create a public water system;
- iv. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized;
- v. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act (filling of wetlands) is required;
- vi. Maine Department of Transportation Traffic Movement Permit or Entrance/ Driveway Permit for state roads; and
- vii. Written approval of any proposed street names from the Town of Windsor E911 Addressing Officer.

If the Board is unsure whether a permit or license from a state or federal agency is necessary, it may require the applicant to obtain a written opinion from the appropriate agency that a permit is or is not needed.

- E. If the Preliminary Plan review identified any areas listed on or eligible to be listed on the National Register of Historic Places, the applicant shall submit the plan and any proposed mitigation measures to the Maine Historic Preservation Commission for comment prior to submitting the Final Plan application.
- F. Within three (3) working days of the receipt of the Final Plan application, the Board, or its designee, shall issue a dated receipt to the applicant.
- G. Within thirty (30) days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- H. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing.
- I. The Board shall determine whether to hold a public hearing on the Final Plan application. If so, it shall hold the hearing within thirty-five (35) days of determining it has received a complete application.
 1. The Town shall publish a notice of the date, time and place of the hearing in a newspaper of daily, local circulation at least two times, the date of the first publication to be at least seven (7) days prior to the hearing.
 2. Notice of the hearing shall be posted in at least three prominent places within the town at least seven (7) days prior to the hearing.
 3. The applicant shall mail by Certified Mail, Return Receipt Requested, a copy of the notice of public hearing to owners of all property within five hundred (500) feet of the subdivision boundaries at least ten (10) days prior to the hearing. The applicant shall provide the Board with return receipt cards at the time of the public hearing.

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4. The Board shall not review any Final Plan application in the absence of the applicant or applicant's representative. Should the applicant or representative fail to attend a scheduled meeting, the Board shall reschedule review for its next regular meeting.
- J. Before the Board grants approval of the Final Plan, the applicant shall meet the performance guarantee requirements contained in this Ordinance.
- K. Within thirty (30) days from the public hearing or within sixty (60) days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Section 1.4.
 1. If the Board finds that all the criteria have been met, it shall approve the Final Plan.
 2. If the Board finds that any of the criteria have not been met, it shall either deny the application or approve the application with conditions sufficient to ensure that the criteria will be met by the applicant. The reasons for any conditions shall be stated in the records of the Board.

7.2 Submissions Required for a Final Plan Application.

- A. 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 (100) acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and eight (8) full sized paper copies of all the Final Plan sheets and any supporting documents shall be submitted.
- B. The Final Plan shall include or be accompanied by the following submissions:
 - Completed Town of Windsor Final Plan Application Form
 - Final Plan. A Recordable Plat at the size and scale indicated above, and including at a minimum the following information:
 - Proposed name of the subdivision, plus the assessor's map and lot numbers.
 - The location of existing and proposed property lines, existing and proposed streets, easements, watercourses, and other essential existing physical features. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground, tied to reference points previously established. The location, bearing and length

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- of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor.
- The plan must show, on each individual lot, a proposed building envelope which meets all setback and separation requirements from streets, property lines, wetlands, and other protected features.
- The date the plan was prepared, north point, and graphic map scale.
- The names and addresses of the record owner, applicant, and individual or company who prepared the plan. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
- The location of any shoreland zoning boundaries affecting the subdivision.
- Any waivers granted by the Board for required public improvements.
- Space shall be reserved on the plan for endorsement by the Board.
- A digital parcel layer containing existing and proposed lot lines, street lines and boundaries of easements or rights-of-way affected by the subdivision.
- A written statement from the fire chief approving all proposed fire protection measures.
- Evidence of adequate ground water supply and water quality prepared by a well driller or a hydrogeologist familiar with the area.
- If different than those submitted with the Preliminary Plan, a copy of any proposed leases, covenants, or deed restrictions intended to cover all or part of the lots or units in the subdivision.
- Construction-quality plans for all streets, including off-site street improvements and commercial parking and entrance areas, in sufficient detail to indicate compliance with Town of Windsor Streets and Ways Ordinance and to permit inspections thereof.
- For all public improvements, a financial guarantee of performance, in accordance with Section 9.2 of this Ordinance.
- All parcels of land proposed to be dedicated to public use shall be surveyed.
- Written offers to convey title to the Town of Windsor of all streets and open spaces shown on the Plan, or copies of agreements or other documents showing the manner in which streets and open spaces to be retained by the developer or lot owners are to be managed and maintained.
- The location and method of disposal for land clearing and construction debris.
- An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices*, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading.
- A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection. Another methodology may be used if the applicant can

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demonstrate it is equally applicable to the site. The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading.

C. Circumstantial Submissions Requirements. Based on specific circumstances within a proposed subdivision, the Board shall require additional information to be submitted. These specific circumstances are identified as follows:

- If a Homeowners Association or Condominium Association is proposed for enforcement of covenants and restrictions, or management of roads, common property, or facilities, a copy of proposed articles of incorporation, bylaws, condominium declarations or other documentation is required.
- If proposed streets, parks, playgrounds, open space, or other land or facilities are to be offered to the Town, written evidence that the Board of Selectmen is satisfied with the legal sufficiency of the written offer to convey title shall be included. Approval of the plan does not constitute an acceptance by the Town of such areas, and the plan shall contain appropriate notes to this effect.
- If the subdivision consists of the division of a building by lease or rental, a written plan for the ownership and management of the building, grounds, and public areas is required.
- If any portion of the proposed subdivision is in the direct watershed of a great pond and the average density of development is greater than one lot or unit per five (5) acres, the following shall be submitted or indicated on the plan:
 - (1) A phosphorus impact analysis and control plan conducted using the procedures set forth in the Department of Environmental Protection's ("DEP") *Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual*, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Manual.
 - (2) A long-term maintenance plan for all phosphorus control measures.
 - (3) The contour lines shown on the plan shall be at an interval of no less than five feet. Areas with sustained slopes greater than 25 percent covering more than one acre shall be delineated.

D. The Planning Board may require any additional information not listed above, when it is determined necessary by the Board to determine whether the review criteria listed in Section 1.4 of this Ordinance have been met.

7.3 Final Approval and Filing.

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

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- B. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. Upon determination that all criteria in Section 1.4 of this Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan.
- 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.
- C. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.
- D. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more phases subject to any conditions the Board deems necessary in order to ensure the orderly development of the area. If the subdivision exceeds twenty-five (25) lots or units, the Board may require the plan to be divided into two or more phases subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. Any required performance guarantees may be phased in accordance with the provisions in Section 9.2.F of this Ordinance.
- E. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised Final Plan is first submitted and the Board approves any modifications. If 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.
- F. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of Windsor of any street, easement, parkland, or other open space.
- G. Except in the case of a phased subdivision plan, failure to substantially complete public improvements associated with the subdivision within five (5) years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.
- H. No lots or units may be conveyed nor construction begin on public improvements prior to final approval of the subdivision. No building permit may be issued by the Town prior to the inspection and approval of required public improvements as provided in Article 9 of this Ordinance, except as specifically allowed by the Board as a condition of Final Plan approval.
- I. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a professional land surveyor stating that all monumentation shown on the plan has been installed.

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ARTICLE 8 - REVISIONS TO APPROVED PLANS

8.1 Procedure.

- A. An applicant for a revision to a previously approved plan shall request to be placed on the Board's agenda at least five (5) working days prior to a scheduled meeting of the Board.
1. If the revision involves the creation of additional lots or dwelling units, the requirements of Article 6 (Preliminary Plan Preliminary Plan approval) shall be followed.
 2. If the revision involves modifications to the approved plan other than the creation of additional lots or units, the requirements of Article 7 (Final Plan approval) shall be followed.
 3. If the revision involves only minor changes to the design and construction of streets, parking areas, stormwater management structures or other improvements warranted by site conditions, it shall not be subject to Board review. The Inspecting Official, as defined below in Section 9.1(A), shall issue written permission for the change and shall obtain and submit a copy of "as-built" plans for the subdivision file.

8.2 Submissions.

The applicant shall submit a copy of the approved plan and eight (8) copies of the proposed revised application. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the title of the subdivision and the book and page on which the original plan is recorded at the Registry of Deeds.

8.3 Scope of Review.

Within thirty (30) days from a public hearing or within sixty (60) days of receiving an application for a revision, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact and conclusions relative to the criteria for approval contained in Section 1.4. The Board's scope of review shall be limited to those portions of the plan which are proposed to be revised.

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ARTICLE 9 – INSTALLATION OF PUBLIC IMPROVEMENTS

9.1 Inspection of Public Improvements.

- A. The Town of Windsor shall designate an Inspecting Official for the purpose of monitoring public improvements during the construction of the subdivision. The Inspecting Official may be a municipal employee or a registered professional engineer with experience in public improvements.
- B. At least five (5) working days prior to commencing construction of public improvements, the subdivider or his designee shall:
 - 1. Notify the Inspecting Official in writing of the time when it is proposed to commence construction of such improvements, so that the Inspecting Official can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during construction, and to assure the satisfactory completion of improvements required by the Board; and
 - 2. Deposit with the Town a check for the amount of 2% of the estimated costs of the public improvements to pay for the costs of inspection. If upon satisfactory completion of construction, including cleanup, there are funds remaining, the surplus shall be refunded to the subdivider. At such time as the inspection account is drawn down by 90%, the subdivider shall deposit an additional 1% of the estimated costs of the required improvements.
- C. If the Inspecting Official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the official shall so report in writing to the Town Manager, Board, and the subdivider. The Town shall take any steps necessary to assure compliance with the approved plans.
- D. During construction, 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 Article 9 in writing and shall submit a copy of the approval to the Board. Revised plans shall be filed with the Board.

For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain prior permission from the Board to modify the plans in accordance with Article 8. The Board shall retain discretion to determine whether a modification is considered major or minor.

- E. At the close of each construction season the Inspecting Official shall inspect and document progress on the site. Within thirty (30) days of the termination of the construction season of each year during which construction was done on the site, the Official 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,

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are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.

- F. Upon completion of street construction and prior to any vote by the Board of Selectmen to submit to Town Meeting an article to accept a street as a town way, the subdivider shall submit a written certification signed by a professional engineer, stating that the proposed street meets or exceeds the design and construction requirements of the Town of Windsor Ordinance for the Acceptance of Streets and Ways. "As built" plans shall be submitted to the Town.
- G. The subdivider shall be required to maintain all improvements and provide for winter road maintenance until acceptance of the improvements by the Town or until control is transferred to a Homeowners' Association established for this purpose.

9.2 Performance Guarantees.

- A. The cost of all public improvements shall be borne by the subdivider.
- B. In order to demonstrate financial capacity to complete the public improvements, the subdivider shall, at the time of the application for Final Plan approval, provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all public improvements, taking into account the time-span of construction and the inflation rate for construction costs. The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Town Manager and/or town attorney.
 - 1. a certified check payable to the Town of Windsor or a savings account or certificate of deposit naming the Town of Windsor as owner, for the establishment of an escrow account, in accordance with subsection D, below;
 - 2. A performance bond payable to the Town of Windsor issued by a surety company, approved by the Board of Selectmen or Town Manager, in accordance with subsection E, below; or
 - 3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, approved by the Board of Selectmen or Town Manager, in accordance with subsection F, below.
- C. The performance guarantee shall include:
 - i. a construction schedule;
 - ii. cost estimates for each major phase of construction taking into account inflation;
 - iii. provisions for inspections of each phase of construction;
 - iv. provisions and conditions for the release of part or all of the performance guarantee to the developer; and

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- v. a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

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

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

- F. 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 public improvements, and from which the Town of Windsor may draw if construction is inadequate for the duration of the project, and may not be used for any other project or loan collateral.

- G. If the Board has allowed or required the division of the subdivision into phases, the requirements for a performance guarantee may be phased as well. In such a case, Board approval is limited to those lots or units abutting that section of the street covered by the performance guarantee. When development is phased, street construction shall commence from an existing street. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

- H. 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 Inspecting Official and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

- I. If the Inspecting Official finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the official shall so report in writing to the Town Manager, the Board, and the developer. The Town shall take any steps necessary to ensure adherence to the plans and specifications.

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ARTICLE 10 – PERFORMANCE STANDARDS

The performance standards in this Article are intended to ensure that the statutory review criteria found in Section 1.4 are met. The Board must find in its review of subdivision applications that these standards will be met prior to the approval of an application. In all instances, the burden of proof shall be upon the applicant to present adequate evidence to indicate that these standards and the criteria for approval have been or will be met.

10.1 Aquifer Protection: Quality and Quantity.

A. Ground Water Quality.

1. When a hydrogeologic assessment is required by the Board, the assessment shall contain at least the following information:
 - i. A map showing the basic soils types;
 - ii. The depth to the water table at representative points throughout the subdivision;
 - iii. Drainage conditions throughout the subdivision;
 - iv. Data on existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties;
 - v. An analysis and evaluation of the effect of the subdivision on ground water resources. Projections of ground water quality must be based on the assumption of drought conditions (60 percent of annual average precipitation);
 - vi. If for a residential development, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries or at a distance of 1,000 feet from potential contamination sources, whichever is the shortest distance; and
 - vii. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards, as such standards are set forth in the *Maine Rules Relating to Drinking Water*. See Code of Maine Rules Chapter 10, Section 144, available through the Town. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
3. If ground water contains contaminants in excess of the secondary standards, no subdivision shall cause the levels of the parameters in question to exceed 150% of ambient levels.
4. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction measures for drinking water wells or other measures to reduce ground water

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contamination and protect drinking water supplies are recommended in the assessment, they shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

B. Ground Water Quantity.

1. Withdrawals from a mapped aquifer shall not lower the water table beyond the boundaries of the subdivision.
2. Development of the subdivision will not result in a lowering of the water table at the subdivision boundary by increasing runoff at the expense of infiltration of precipitation.

10.2 Design of Cluster Developments.

A. Purpose of Clustering

The purpose of this Section 10.2 is to allow for flexibility in the design of subdivisions and more economical construction in exchange for the creation of open space, while still maintaining a density of development similar to what is permitted elsewhere in the Town of Windsor. For this purpose, the Board, in reviewing and approving proposed cluster developments, may modify the provisions Town of Windsor Building Code related to dimensional requirements in accordance with the following guidelines. This shall not be construed as granting variances to relieve hardship, and action of the Board of Appeals shall not be required.

B. Basic Standards for Cluster Developments.

1. Cluster developments must be designed in accordance with other standards of this Ordinance.
2. Each building site shall be identified and integrated into the subdivision design. Only developments which include a plan for the siting of structures will be considered. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking. Buildings shall not be sited closer than twenty-five (25) feet apart from each other.
3. Within a cluster development design, individual lots for single-family homes may be no less than one acre and street frontage may be reduced to no less than one hundred (100) feet, in return for provision of common open space, as long as the maximum number of dwelling units is not exceeded, according to the calculations in subsections 4 and 5 below. Shore frontage for each lot shall not be reduced below the minimum required by the Shoreland Zoning Ordinance.
4. In order to determine the maximum number of dwelling units permitted on a tract of land, an estimate of the developable acreage is calculated by subtracting from the total area of the tract of land, the following amounts:

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- i. Fifteen (15) percent of the area of the tract to account for roads and parking;
 - ii. Any land area designated as a floodway in maps prepared by the Federal Emergency Management Agency;
 - iii. Any land area with slopes greater than 20%;
 - iv. Any area covered with water, or identified as wetlands by the National Wetlands Inventory, and any areas designated as Resource Protection Districts by the Town of Windsor Shoreland Zoning Ordinance; or
 - v. Any land area with existing rights-of-way, drainage easements, or other legal restrictions that would prevent building.
5. The developable acreage calculated in sub-section 4, above, shall be divided by two (2) and rounded to the nearest whole number to determine the total number of lots or units permitted to be shown in the clustered design.
 6. The total area of required open space within the development shall equal or exceed three-quarters ($\frac{3}{4}$) of the sum of the area by which any building lots are reduced below two (2) acres. (*Ex: If ten lots are reduced from 2 acres to 1.5 acres, required open space would be $\frac{3}{4} \times \frac{1}{2} \text{ acre} \times 10$, or 3.75 acres.*)
 7. Required common open space shall not include road rights of way, streets, drives, or parking areas.
 8. Every building lot that is reduced in area below two acres shall be within 1,000 feet of the common open space.
 9. No individual lot or dwelling unit shall have direct vehicular access onto a public road already existing at the time of development.
 10. Required open space shall owned and managed according to the standards of Section 10.9.

10.3 Environmental Protection.

A. Protection of Significant Wildlife Habitat.

1. If any portion of a proposed subdivision lies within 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife "Beginning with Habitat Project" or the Comprehensive Plan as:
 - i. Habitat for species appearing on the official State or federal lists of endangered or threatened species;
 - ii. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
 - iii. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or
 - iv. Within an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel

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corridor, the applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports.

2. The applicant must consult with the Maine Department of Inland Fisheries and Wildlife and provide the Department's written comments to the Board. The Board may additionally require a report prepared by a wildlife biologist selected or approved by the Board, with demonstrated experience with the wildlife resource being impacted. This report will assess the potential impact of the subdivision on the habitat and adjacent areas important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the protected habitat and the species it supports.

B. Protection of Important Shoreland Areas.

1. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or shall be included in the open space with provisions made for continued public access.
2. Within a strip of land extending 100 feet inland from the normal high-water line of a great pond or any tributary to a great pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The plan notes, and deeds to any lots which include any such land, shall contain the following restrictions:
 - i. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 ½ feet above the ground level on any lot in any ten year period;
 - ii. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown;
 - iii. A footpath not to exceed six feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created; and
 - iv. In order to protect water quality and wildlife habitat adjacent to great ponds and tributaries to great ponds, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above. Pruning of tree branches on the bottom third of the tree is permitted.
3. Within all other areas designated as a Shoreland Zone in the Windsor Shoreland Zoning Ordinance, cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed 25 percent of the lot area nor 10,000 square feet, whichever is greater, including land previously developed.

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

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

10.4 Erosion Control.

- A. The proposed subdivision will not allow soil or sediment to enter waterbodies, wetlands, or adjacent properties. An erosion and sedimentation control plan shall be prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices* (Maine DEP and the Cumberland County Soil and Water Conservation District, 1991).
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during site preparation, construction, and clean-up stages.
- C. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- D. Topsoil shall not be removed from the subdivision site except topsoil which is surplus from roads, parking areas, and building excavations.

10.5 Financial and Technical Capacity.

A. Financial Capacity.

The applicant shall demonstrate adequate financial resources to construct any proposed roads or other public improvements and meet other requirements of this Ordinance. When the applicant proposes to construct buildings as well as the subdivision improvements, the applicant shall demonstrate adequate financial resources to construct the total development. The Board shall consider the proposed time frame for construction and the effects of inflation.

B. Technical Ability.

- 1. The applicant shall retain qualified contractors and consultants to design, construct, and inspect the required improvements in the subdivision.
- 2. In determining the applicant's technical ability, the Board shall consider the experience and qualifications of the applicant's consultants and contractors, and the Board's experience with prior approvals granted to the applicant.

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10.6 Floodplain Management.

- A. 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 show that all building and development will comply with the Town of Windsor Floodplain Management Ordinance. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage.
- B. The final subdivision plan shall include a statement that structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or other documents, including but not limited to a time-share interest. The statement shall clearly articulate that the Town of Windsor may enforce any violation of the construction limitation.

10.7 Lot Design and Identification.

A. Lots.

- 1. All lots, except those proposed within cluster developments approved pursuant to Section 10.2 and mobile home parks approved pursuant to Section 10.8, shall meet the minimum dimensional requirements of the Town of Windsor Building Code.
- 2. Wherever possible, side lot lines shall be perpendicular to the street.
- 3. The subdivision of tracts into parcels of more than four (4) acres shall be laid out in such a manner as either to provide for or prevent future division. Covenants and notes on the plan shall either prohibit future division of the lots or specify that any future division constitutes a revision to the plan, requiring separate approval from the Town.
- 4. Roads are lot boundaries for the purpose of subdivision review. Any tract or lot which is divided by a road is considered to be separate lots and must each meet the dimensional standards in effect.
- 5. 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 frontage or lot size requirements are prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond, none of the lots created shall have a lot depth to shore frontage ratio greater than 5 to 1.

B. Street Addressing.

Lots shall be numbered in such a manner as to facilitate street addressing. Even numbers shall be assigned to lots on one side of the street, odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or a street approved by the board but not yet constructed, lot numbers shall continue the existing or

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approved numbering system. Lot numbering shall be reviewed by the E-911 Addressing Officer prior to Board review.

C. Monuments.

1. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, and no further than 750 feet apart along street lines without curves or intersections. Stone or precast concrete monuments shall also be set at all angle points of the subdivision tract boundary where the interior angle of the subdivision boundary is 135° or less.
2. Stone or precast concrete monuments shall be a minimum of four inches square at the top and three feet in length, and set in the ground at grade level. After they are set, a drill hole ½ inch deep shall locate the point being monumented.
3. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

10.8 Mobile Home Parks.

- A. Mobile home parks shall be designed in accordance with standards promulgated by the Maine Manufactured Housing Board under the authority of 30-A M.R.S.A. §4358, *Regulation of Manufactured Housing*.
- B. Notwithstanding the provisions of Section 10.7.A.1, individual mobile home park lots shall meet the following minimum lot sizes:
 1. Lots served by a central on-site subsurface wastewater disposal system approved by the Department of Human Services shall be a minimum of 12,000 square feet, provided that the overall density of the mobile home park is at least 20,000 square feet per mobile home.
 2. Lots served by individual subsurface wastewater disposal systems shall be a minimum of 20,000 square feet.
- C. Notwithstanding the provisions of the *Building Code of the Town of Windsor*, the following dimensional standards shall apply:
 1. There shall be no setback from internal private roads within the mobile home park. Structures on lots fronting on a public road must still meet the required setback of seventy-five (75) feet from the centerline of the road.
 2. All structures within the mobile home park shall be set back a minimum of fifty (50) feet from the outer boundary of the mobile home park, unless the park abuts another mobile home park.

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D. Private roads to be constructed entirely within a mobile home park shall not be required to meet the construction standards of this Ordinance or the *Ordinance for the Acceptance of Streets and Ways*. The following standards shall apply:

1. Rights-of-way shall be a minimum of twenty-three (23) feet in width.
2. Roads shall be built in accordance with the standards of the Maine Manufactured Housing Board and so certified on the plan.
3. The plan shall state that roads are the property and responsibility of the owner of the mobile home park and shall not be dedicated to nor maintained by the Town of Windsor.

10.9 Open Space Dedication.

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

1. If any portion of the subdivision is located within an area designated by the Town as priority open space, that portion shall be reserved for open space preservation through development design in accordance with Section 10.2.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the Comprehensive Plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.
4. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
5. Where required to meet the conditions of open space dedication for a clustered development design, no less than thirty percent (30%) of the common open space shall be useable open space. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.

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

1. All reserved open space, common land, and associated facilities and property shall be dedicated to the Town of Windsor or granted to a homeowners' association or to an organization which has as its primary purpose the protection of land for conservation or preservation purposes.
2. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by a homeowners' association, it shall be subject to a conservation easement deeded to the Town of Windsor or qualified private organization.
3. The common land or open space shall be shown on the Final Plan with appropriate notations on the plan to indicate:
 - i. It shall not be used for future building lots; and
 - ii. which portions of the open space, if any, are intended to be dedicated for acceptance by the Town of Windsor.
4. Where common land or open space is intended to be dedicated to a homeowners' association, the Final Plan application shall include the following:
 - i. Covenants for mandatory membership in the homeowners' association setting forth the homeowners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
 - ii. Draft articles of incorporation of the proposed homeowners' association as a not-for-profit corporation; and
 - iii. Draft by-laws of the proposed homeowners' association specifying the responsibilities and authority of the association, its operating procedures, and proper capitalization to cover the costs of major repairs, maintenance and replacement of common facilities.
5. In combination, the documents referenced in subsection 4, above, shall provide for the following:
 - i. The homeowners' association shall be responsible for owning and maintaining the common property or facilities.
 - ii. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
 - iii. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.

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- iv. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the homeowners' association or the developer.

10.10 Sewage Disposal.

- A. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge licensed by the Maine Department of Environmental Protection.
- B. The applicant shall submit evidence of site suitability prepared by a licensed site evaluator in full compliance with the requirements of the *Maine Subsurface Wastewater Disposal Rules*.
 1. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to a disposal area on soils which meet the Disposal Rules.
 2. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second area with suitable soils shall be shown as reserved for future field replacement. The reserve area shall be shown on the plan and restricted in the deed so as not to be built upon.
 3. In no instance shall a disposal area be on a site which requires a "New System Variance" from the *Subsurface Wastewater Disposal Rules*.

10.11 Solid Waste.

If the additional solid waste from the proposed subdivision exceeds the capacity of the existing disposal facility, causes the facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the Town to exceed its contractual obligations with other solid waste handlers, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

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10.12 Stormwater Management.

- A. For subdivisions that require a DEP review under the Site Location of Development Act, the applicant shall submit a stormwater management plan which complies with the permit requirements.
- B. For subdivisions that do not require a site law permit, but require a DEP stormwater management permit, the stormwater management plan submitted shall comply with the standards of Chapter 500, *Stormwater Regulations*, of the Site Location of Development Act.
- C. For subdivisions outside of the direct watershed of a great pond that neither require a site law permit nor a DEP stormwater permit, the stormwater management plan shall incorporate techniques for low impact development throughout the subdivision.
- D. For subdivisions within the direct watershed of a great pond and containing five (5) or more lots or dwelling units, or any combination of 800 linear feet of new or upgraded driveways and streets, the stormwater management plan must meet the phosphorus allocation thresholds in accordance with the methodology described in Volume II of the *Maine Stormwater Best Management Practices Manual, 2006*.
- E. The Board may require a hydrologic analysis for any subdivision located in a special flood hazard area as identified by the Federal Emergency Management Agency. This hydrologic analysis would be in the form of a “Downstream Analysis” under conditions of the 10-year, 24-hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm, as described below:

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

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10.13 Sufficient Water.

A. Water Supply.

1. When a subdivision is proposed to be served by a public (community) water system, the complete supply and distribution system, including fire hydrants, shall be designed by a registered professional engineer and installed at the expense of the developer.
 - a. The size and location of mains, gate valves, and hydrants shall be reviewed and approved in writing by the fire chief. Fire hydrants connected to a public water supply system shall be located no further than 500 feet from any lot.
 - b. The design, construction and operation of the system shall conform to the standards of the *Maine Rules Relating to Drinking Water*.
2. When a subdivision will not have a public water supply, water shall be from individual wells.
 - a. Individual wells will be sited and constructed to prevent infiltration of surface water and contamination from subsurface waste water disposal systems and other sources of potential contamination. Wells shall not be constructed within 100 feet downhill of a public street or within 50 feet uphill of a public street. This restriction shall be included as a note on the plan and deed restriction to the affected lots.
 - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the *Maine Subsurface Wastewater Disposal Rules* and the *Well Drillers and Pump Installers Rules*.
3. In areas where the Comprehensive Plan has identified the need for additional water storage capacity for fire fighting purposes or where the fire chief has documented such a need, the applicant shall provide adequate water storage facilities.
 - a. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief.
 - b. A minimum storage capacity shall be provided of 10,000 gallons, plus 2,000 gallons per lot or unit in excess of five (5) lots. The Board may require additional storage capacity upon a recommendation from the fire chief. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice.
 - c. Hydrants or other provisions for drafting water shall be provided to the

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specifications of the fire chief. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six (6) inches. A suitable accessway to the hydrant or other water source shall be constructed and easements shall be granted to the Town of Windsor for access to and maintenance of dry hydrants or reservoirs where necessary.

- d. The Board may waive the requirement for water storage only upon evidence that the soil types in the subdivision will not permit their construction or installation and that the fire chief has indicated in writing that alternate methods of fire protection are available.

B. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the *Maine Rules Relating to Drinking Water*. If existing water quality contains contaminants in excess of the secondary drinking water standards in the *Maine Rules Relating to Drinking Water*, that fact shall be disclosed in a note on the plan and recorded in the Registry of Deeds.

10.14 Timber Harvesting.

- A. The Board shall ascertain that any timber harvested on the parcel being subdivided has been harvested in compliance with rules adopted pursuant to 12, M.R.S.A. §8869(14), adopted by the Maine Forest Service to substantially eliminate liquidation harvesting.
- B. If a violation of these rules has occurred, the Board shall not approve the subdivision plan unless it determines that five (5) years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel.
- C. The Planning Board may request technical assistance from the Maine Forest Service to determine whether a rule violation has occurred. If the Forest Service notifies the Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester.
- D. For the purposes of this subsection, "parcel" means a contiguous area within one municipality owned by one person or a group of persons in common or joint ownership.

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10.15 Vehicular Movements.

A. General Standard.

A proposed subdivision shall provide adequate facilities for the access and movement of vehicles appropriate to the type of subdivision proposed, both within the subdivision and on public ways. The transportation system shall provide safe and efficient circulation for vehicles and pedestrians on interior subdivision streets and access connections to external streets.

B. Access and Movement along Public Ways.

1. All roads, driveways, or entrances connecting to any State or State-aid highway shall meet the standards of the Maine Department of Transportation *Driveway and Entrance Rules* (Chapter 299) and obtain a permit from the Maine DOT prior to Final Plan approval. Applicants are strongly advised to consult Maine DOT permitting standards prior to preliminary design. If the Maine DOT permit requires substantial redesign of the subdivision or its proposed roads, the Board may require a new Preliminary Plan review.
2. Any subdivision that is predicted to generate more than 100 passenger vehicle equivalent trips in the peak hour shall meet the permitting requirements of the Maine DOT *Rules and Regulations Pertaining to Traffic Movement Permits*, and obtain a permit prior to Final Plan approval.
3. Any road, driveway, or entrance onto a Town Way shall be required to demonstrate adequate location and design.
 - a. Access points shall not impede the flow of drainage water through existing ditches or culverts. The design of access point drainage systems shall be approved by the Road Supervisor in writing prior to Final Plan approval.
 - b. Access points shall be located such as to provide adequate sight distance along the existing street. The required sight distance shall be calculated on the basis of ten (10) feet of visible distance for every mile-per-hour of posted speed limit. On roads which are not posted, required sight distance shall be not less than three hundred fifty (350) feet.
 - c. No subdivision road shall intersect the existing street at an angle of less than 60 degrees.
 - d. Subdivision roads including all radii must be paved for a minimum distance of twenty five (25) feet from the edge of pavement of the existing street, unless:
 - i. the existing street is not paved; or
 - ii. the subdivision road will serve five (5) or fewer lots or units.

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4. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. No subdivision shall cause traffic volumes of streets or intersections serving the subdivision to exceed 55 percent of their rated capacity.
 - i. If, in the opinion of the Board and upon advice of the Town Manager, the proposed subdivision will result in an undue increase in traffic or unsafe conditions on public roads, it may require the subdivider at his expense to install any improvements to public streets necessary to alleviate the impacts.
5. Access to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left-turning storage capacity shall be provided to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane shall be done by a professional engineer.

C. Street Design and Construction.

1. Except for mobile home parks as provided in Section 10.8, all internal subdivision roads shall meet the design and construction requirements of the Town of Windsor Ordinance for the Acceptance of Streets and Ways. In addition, for all subdivision roads except within mobile home parks, the following standards shall apply:
 - a. All streets shall be established within a fifty (50) foot right-of-way.
 - b. A paved surface is not required, except in the following circumstances:
 - i. The street will serve a multi-family or non-residential subdivision, or
 - ii. The street will be proposed for acceptance by the Town.
 - c. All dead end streets must be designed and constructed with a cul-de-sac or hammerhead-style turn-around.
2. The streets of the proposed subdivision must be designed to coordinate with existing and planned streets. Wherever a proposed subdivision abuts land which is within the designated growth area of the Comprehensive Plan, right-of-way shall be provided as deemed necessary by the Board to provide access or to logically extend the street system.
3. Streets which join and are in alignment with streets of abutting or neighboring properties must bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the Town of Windsor, and shall be contingent on the approval of the Board of Selectmen. The developer shall install street name and traffic control signs meeting town requirements or reimburse the Town for the costs of their installation.

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4. During street construction, right-of-way clearing shall be limited to that which is necessary for utilities, drainage or other infrastructure necessities. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. If on-site disposal of the stumps and debris is proposed, the disposal site shall be indicated on the plan. Disposal debris shall be suitably covered with fill and topsoil, limed, fertilized, and seeded.

D. Streets to Remain Private.

1. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan:
 - i. “All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town until they meet all municipal street design and construction standards and be accepted by the Town.”
2. A road maintenance agreement approved by the Board shall be recorded with the deed of each property to be served by a private road. The agreement shall provide for a method to initiate and finance a private road and maintain that road in suitable condition, and a method of apportioning maintenance costs to current and future users.

E. Access and Parking for Commercial and Multi-family Subdivisions.

1. Central access points and driveways shall be provided for all structures. No more than two points of access shall be provided for any development.
 - a. Individual access points shall be designed and located in accordance with Maine DOT *Highway Driveway and Entrance Rules* based on the estimated volume of traffic to be generated.
 - b. Sufficient driveway length shall be constructed within the access in order to stack vehicles waiting to exit and prevent incoming vehicles from queuing back into the highway.
 - c. A strip of land shall separate the existing street from the parking lot. The separating strip shall extend the length of the entire existing right-of-way (except for the point of driveway crossing) and a minimum of five (5) feet in depth along the frontage of the property. The Board may require the strip to include landscaping or vegetation sufficient to prevent parking lot activities from distracting motorists on the public road.
2. The layout and design of parking lots must provide for safe and convenient circulation of vehicles within the lot. Circulation and parking shall be adequate to prevent vehicles from having to move or park on the public street.

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- a. Sufficient parking spaces shall be installed to service the type of development proposed. The minimum number of parking spaces to be provided shall be calculated as follows:

Retail Uses:	4 spaces for every 1,000 sq. ft. of floor space
Eating Establishment	1 space for every 3 seats
Residential	1.5 spaces per housing unit
All Other	3 spaces for every 1,000 sq. ft. of floor space

- b. All parking spaces must be of sufficient size to contain a 10 foot by 18 foot rectangle. Parking spaces shall be accessible directly from a traffic aisle within the subdivision. The traffic aisle shall be a minimum of 14 feet wide for one-way traffic or 20 feet wide for two-way traffic. No parking spaces shall be accessible directly from the public road.
- c. Any truck loading bays serving buildings within the development shall be accessible without interfering with designated parking spaces.
- d. The design of the parking lot must allow a clear route of access to and around all buildings for the use of emergency vehicles.