



## SUBDIVISIONS\*

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**\*Editor's note:** Ord. No. 12-1989, adopted Dec. 5, 1989, provided for the repeal of former App. C, Subdivisions, Arts. I--XIV, and enacted in lieu thereof new provisions pertaining to the same subject matter. Absence of a history note following a section or subsection indicates that such material derives unchanged from Ord. No. 12-1989; conversely, a history note enclosed in parentheses following a particular section or subsection indicates amendment by such ordinance(s) referenced therein. Prior to repeal, former App. C was derived from Ord. No. 2-1976, adopted July 20, 1976, as amended by Ord. No. 6-1988, adopted Feb. 16, 1988.

**Cross references:** Buildings, Ch. 7; electricity, Ch. 9; fire protection and prevention, Ch. 10; housing, Ch. 15; planning, Ch. 19; sewers, drains and sewage disposal, Ch. 21; streets and sidewalks, Ch. 22; zoning, App. A; floodplain development permit, App. D.

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### ARTICLE 1. PURPOSE, APPLICABILITY, AND STANDARDS OF REVIEW

#### 1.1. Purpose.

1.1.1. The purpose of this ordinance is to assure the comfort, convenience, safety, health and welfare of the people of the City of Waterville, Maine; to protect the environment and to promote the development of an economically sound and stable community. In reviewing site plans and approving subdivisions, the planning board shall consider the requirements of this ordinance before granting approval, approval with conditions, or denial, and shall make findings of fact that the provisions of this ordinance have been met and that proposed standards meet the guidelines of the state law Title 30-A MRSA section 4404, as amended from time to time.

#### 1.2. Applicability.

1.2.1. The provisions of this ordinance shall apply to all site plans reviewed by the planning board as required by the city's zoning ordinance, and all proposed subdivisions as defined by state law in Title 30-A MRSA section 4404, as amended from time to time.

1.2.2. For those site plans and proposed subdivision plans approved by the planning board or the municipal officials prior to the enactment of this ordinance, the developer shall provide affirmative evidence that such a project complied with all laws then in effect at the time of approval. If such a plan was also required to be legally recorded in the Kennebec Registry of Deeds, the developer shall also provide evidence that this was done.

1.2.3. If the provisions in section 1.2.2. are applicable and cannot be satisfied, the developer shall be required to reapply for approval according to the terms and conditions of this ordinance.

### **1.3. Standards of review.**

1.3.1. The planning board shall consider the following criteria before granting approval and shall make findings of fact that for all site review or subdivision applications, the proposed development:

1.3.1.A. Will not result in undue water or air pollution on and off site. In making this determination, it shall at least consider:

1.3.1.A(1) The elevation of land above sea level and its relation to the floodplain;

1.3.1.A(2) The nature of soils and subsoils and their ability to adequately support waste disposal;

1.3.1.A(3) The slope of land and its effect on effluents;

1.3.1.A(4) The availability and capacity of streams and other vehicles for disposal of effluents; and

1.3.1.A(5) The applicable state and local water resources regulations.

1.3.1.B. Has sufficient water available for the reasonably foreseeable needs of the development including, but not limited to, potable water and fire control water.

1.3.1.C. Will not cause an unreasonable burden on existing water supply including private water systems or the Kennebec Water District, whichever is to be utilized. The developer shall provide the planning board with a letter from the Kennebec Water District stating this fact.

1.3.1.D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result either on or off site. If the development proposed to discharge stormwater runoff at an increased rate compared to preapplication rate into a municipal stormwater system, then the developer shall improve or pay for the improvement of that municipal storm water system so that it will have the capacity to handle such an increase.

1.3.1.E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed, both on and off site. If the developer is required to submit a traffic impact analysis for off-site traffic, as required in 8.2.2.AE and as a result changes and/or improvements are needed on state or municipally owned or maintained public ways, the developer shall make or pay for such changes and/or improvements. The developer shall provide the planning board with letters from the city engineer and appropriate state agencies stating that the development will not cause unreasonable congestion or unsafe conditions. If there is a determination of unreasonable congestion or unsafe conditions, the developer must provide specifics of any requested changes made by the city engineer or state agencies.

1.3.1.F. Will provide for adequate solid and sewage waste disposal.

1.3.1.G. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage whether by municipal or quasi-municipal sources, private hauler, or other approved means, and has made adequate provision for that disposal. If demolition debris, stumps, and brush are to be disposed of, they shall be disposed of on site if possible, and if they are to be disposed of at a municipal site, the cost of that disposal shall be paid for by the developer. If the development will use more than one-third of the available excess capacity of any portion of the sewage collection systems, treatment facility, and/or its discharge permits, the developer shall pay for the replacement of the available excess capacity needed by the

development if so required by the Waterville Sewerage District. The developer shall provide the planning board with a letter from the Kennebec Water District stating this fact.

1.3.1.H. Will not have an undue adverse effect on the scenic or natural beauty of the area, esthetics, historic sites, or rare and irreplaceable natural areas, or any public rights for physical or visual access to shoreline.

1.3.1.I. Is in conformance with any duly-adopted City of Waterville regulation or ordinance, comprehensive plan, development plan, and/or land use plan. In making this determination, the planning board is authorized to interpret these ordinances and plans in conjunction with the solicitor.

1.3.1.J. The developer has adequate financial and technical capacity to meet the above-stated standards.

1.3.1.K. Whenever situated, in whole or in part, within two hundred fifty (250) feet of any pond, lake, river, will not adversely affect the quality of that body of water or unreasonably affect shoreline of that body of water, and complies with section 4.3.26, of the zoning ordinance.

1.3.1.L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater both on and off site; and if a hydrological assessment is requested, such assessment will comply with section 4.3.18. of the zoning ordinance.

1.3.1.M. Will at least meet all of the requirements of the city's floodplain development permit ordinance, Appendix D, Revised Code of Ordinances.

1.3.1.N. Will identify on any maps submitted as a part of an application under this ordinance all potential freshwater wetlands within the proposed site or subdivision regardless of the size of these wetlands, and any river, stream, or brook, as defined in Title 38 MRSA section 480-B, 9, as amended from time to time, that is within or abuts the subject property of the application.

#### **1.4.**

The planning board may, for purposes of protecting and assuring access to direct sunlight for solar energy systems, prohibit, restrict, or control development through the site plan review and subdivision ordinance.

#### **1.5.**

The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and setback requirements or other permissible forms of land use controls.

## **ARTICLE 2. AUTHORITY AND ADMINISTRATION**

### **2.1. Authority.**

2.1.1. These standards have been prepared in accordance with the provisions of Title 30-A MRSA section 4404, as amended from time to time, and all amendments thereto.

2.1.2. The standards shall be known and may be cited as "Site Plan Review and Subdivision Ordinance of the City of Waterville, Maine".

### **2.2. Administration.**

2.2.1. The planning board of the City of Waterville, hereinafter called the board, shall administer this ordinance. The code enforcement officer shall have enforcement responsibilities for this ordinance.

2.2.2. No building permit or plumbing permit or certificate of occupancy shall be issued by the municipal officers or code enforcement officer for any use or development within the scope of this ordinance unless and until a site plan of development or subdivision application has been reviewed and approved by the planning board.

2.2.3. Consistent with requirements of this ordinance, the planning board shall promulgate and shall annually update a checklist summarizing the tasks, studies, and activities, that the developer will need to undertake, the data that must be furnished and the specific individuals, agencies and offices to which this information must be submitted by the developer. This checklist and the steps it prescribes, must be completed by the developer and declared complete by the planning board in order to initiate the review process.

## **ARTICLE 3. DEFINITIONS**

### **3.1.**

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

*Abutting property owner:* One whose property abuts, is contiguous, or joins at a border or boundary including the property across the street, road, public way or private way.

*Authorized agent:* Anyone having written authorization to act in behalf of a property owner, signed by the property owner.

*Comprehensive plan or policy statement:* Any part or element of the overall plan or policy for development of the city as defined in Title 30-A MRSA section 4301(3) as amended from time to time.

*Construction drawings:* Drawings showing by way of example only the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground telephone ducts, pavements, cross-section of streets, miscellaneous structures.

*Development/project:* Any property and/or structure subject to the regulations of this ordinance.

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

*Easement:* The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his property.

*Effluents:* Waste material discharged into the environment including, but not limited to, storm waters and surface waters.

*Engineer:* City engineer or his/her agent, licensed by the State of Maine.

*Final plan:* The final drawings on which the developer's plan of subdivision or applicable site is presented to the planning board for approval and which, if approved, shall be filed for record with the code enforcement officer and the Kennebec Registry of Deeds; provided that the final drawings are in conformity with the requirements of Title 33 MRSA Section 652 as amended from time to time.

*Legislative body:* City council.

*Municipality:* City of Waterville.

*Official map:* The map adopted by the municipality showing the location of public property, ways used in common by more than two (2) owners of abutting property, and approved subdivisions; and any amendments thereto adopted by the municipality or additions thereto resulting from the approval of subdivision plans by the planning board and the subsequent filing for record of such approved plans.

*Official submittal date:* The time of submission of a preapplication plan, final plan for minor subdivision, preliminary plan for major subdivision or final plan for major subdivision shall be considered the submission date of the application for such plan approval to the board, complete and accompanied by any required fee and all data required by these standards.

*Open space land:* Any area of land, the preservation or restriction of the use of which would conserve scenic resources, enhance public recreation opportunities, promote game management, or preserve wildlife.

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

*Planning board:* The planning board of the municipality which acts as the municipal reviewing authority as provided for in Title 30-A MRSA sections 4301(12) and 4403(1), as amended from time to time.

*Planting screen easement:* A visual buffer consisting of dense vegetation which at maturity is sufficient to substantially screen the use indicated.

*Preliminary plan:* The preliminary drawings indicating the proposed layout of the development to be submitted to the planning board for its consideration.

*Private road:* A minor residential street serving no more than three (3) dwelling units, which is not intended to be dedicated as a public street. This definition includes driveways serving as few as one (1) dwelling unit, when there is insufficient frontage on a public street. Private roads are subject to the performance standards of the Zoning Ordinance.

*Quasi-municipal services:* Including but not necessarily limited to, the Kennebec Water District, the Waterville Sewerage District, and the Kennebec Sanitary Treatment District.

*Resubdivision:* The further division of an existing subdivision or any change of lot size therein or the relocation of any street or lot line in a subdivision.

*Street:* The word "street" means an existing state, county, or city way or a street dedicated for public use and shown upon a plan duly approved by the planning board and recorded in the Kennebec Registry of Deeds. The term "street" shall not include those ways which have been discounted, vacated or abandoned.

*Structure or structures, new:* New structure or structures include any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purpose of this ordinance.

*Structure, principal.* Principal structure is defined to mean the building or structure in which the main use of the premises takes place.

*Subdivider:* An individual, firm, or association, syndicate, partnership, corporation, trust, or any other legal entity, or agent thereof, who or which proposes to build a subdivision. The term "subdivider" includes "developer" and "builder."

*Subdivision:* A subdivision is the division of a tract or parcel of land into three (3) or more lots within any five-year period, which period begins after September 23, 1971, whether accomplished by sale, lease, development, buildings or otherwise, provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality, or by transfer of any interest in land to the owner of land abutting that land unless the intent of that transfer is to avoid the objective of this section, shall not be considered to create a lot or lots for the purpose of this section.

The term "subdivision" shall also include the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five-year period, the construction of three (3) or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five-year period. The area included in the expansion of an existing structure is deemed to be a new structure for the purpose of this paragraph.

In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two (2) lots and the next dividing of either of the first two (2) lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot, unless both those dividings are accomplished by a subdivider who shall have retained one of the lots for his own use a single-family residence or for open space land as defined in Title 36, section 1102 for a period of at least five (5) years prior to that second dividing.

A lot of at least forty (40) acres shall not be counted as a lot, except:

- a. Where the lot or parcel from which it was divided is located wholly or partly within any shoreland area as defined in Title 38, section 435 as amended from time to time; or
- b. In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

Notwithstanding the provisions of this definition, leased dwelling units are not subject to subdivision review if the planning board has determined that the units are otherwise subject to municipal review under the site review provisions of this ordinance or the multifamily provisions contained in the zoning ordinance.

For the purposes of this section, a tract or parcel of land is defined as 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.

*Subdivision, major:* Any subdivision containing five (5) or more lots, or any subdivision requiring any new street extension or construction, or the construction or extension of public utilities.

*Subdivision, minor:* A subdivision containing three (3) or four (4) lots and no street or utilities extension.

*Undue hardship:*

- 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 in the neighborhood;
- c. That the granting of a variance will not alter the essential character of the locality;
- d. That the hardship is not the result of action taken by the applicant/or prior owner;
- e. That the variance is the minimum variance that will make possible reasonable use of the land, building or structure; and
- f. That a variance may only be granted for a use permitted in a particular zone.

*Wetlands, freshwater:* Freshwater wetlands means freshwater swamps, marshes, bogs, and similar areas which are:

- a. Inundated or saturated by surface or groundwater at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- b. Not considered part of a great pond, river, stream or brook.

The areas defined herein may contain small stream channels or inclusions of land that do not conform to the criteria of freshwater wetland as defined herein.

(Ord. No. 15-1992, 10-20-92; Ord. No. 4-1993, 6-15-93)

## **ARTICLE 4. INFORMAL PREAPPLICATION REVIEW**

### **4.1. Procedure.**

4.1.1. Whenever any subdivision or site review plan, as required by the zoning ordinance, is proposed to be made, and before making a formal application for approval of a plan or permit, the applicant shall submit to the planning board a sketch plan of the subdivision or site, buildings, and surrounding land for informal review.

4.1.2. In order to avoid unnecessary delays in processing applications, the board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the board's agenda at least two (2) weeks in advance of a regularly scheduled meeting by contacting the chairman. Applicants who attend the informal preapplication review meeting but who are not on the board's agenda may be heard but only after all agenda items have been completed and then only if a majority of the board so votes.

4.1.3. At the time the sketch plan is submitted, there will be a question and answer period. The board may make specific suggestions to be incorporated into subsequent submissions.

4.1.4. If the planning board desires a view of the site, the applicant shall arrange inspection of the site with the planning board or a committee member or individual appointed by the chairman to act as the board's representative for that inspection.

4.1.5. Within thirty (30) days the board shall determine and inform the applicant in writing of the required contour interval on the plan, and hold an on-site inspection of the property if requested by the board.

4.1.6. The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1 MRSA section 302, as amended from time to time. In the case of a subdivision as defined in Title 30-A MRSA section 4404, as amended from time to time, and herein, after preliminary inspection, the planning board will classify the sketch plan into categories as defined herein: Minor subdivision; major subdivision.

4.1.7. If classified as a minor subdivision, the subdivider shall then comply with the procedures outlined in Article 7 of these standards. If classified as a major subdivision the subdivider shall comply with the procedures outlined in Articles 8 and 9 of these standards.

4.1.8. All site review plans in excess of ten thousand (10,000) square feet of total gross floor area to which this ordinance is applicable shall comply with the procedures outlined in Article 8 and Article 9 of these standards; otherwise, the procedures outlined in Article 7 shall apply.

4.1.9. No fee shall be charged for the informal preapplication review.

## **4.2. Submissions.**

4.2.1. The applicant shall submit the sketch plan to the planning board at least two (2) weeks in advance of a regularly scheduled meeting.

4.2.2. The sketch plan shall show, in simple sketch form on a topographic map the proposed layout of streets and lots, location of all existing and proposed buildings and structures, and other features in relation to existing conditions. The sketch plan, which may be a free-hand penciled sketch, should include the data listed in section 7.3 or such of it as the planning board determines is necessary for its consideration of the proposed sketch plan.

4.2.3. General information shall describe or outline existing conditions of the site and the proposed development as necessary to supplement the drawing required above.

This information shall include data on existing covenants, soils, and available community facilities and utilities, as well as information specific to the proposal itself.

## **ARTICLE 5. APPLICATION FEES AND ESCROW ACCOUNT**

### **5.1. Fees.**

5.1.1. All applications for final plan approval for minor subdivisions with four (4) or less dwelling units, lots or rental units, and site plan review permits for projects with structures having a total gross floor area of less than ten thousand (10,000) square feet, shall be accompanied by an application fee of one hundred dollars (\$100.00) plus an additional fifty dollars (\$50.00) for each lot or dwelling unit, or two thousand (2,000) square feet of gross floor space. The application fees shall be made by check payable to the City of Waterville, Maine.

5.1.2. All applications for preliminary plan approval for major subdivisions with five (5) or more dwelling units, lots or rental units or site plan review projects which have a total gross floor space in excess of ten thousand (10,000) square feet, shall be accompanied by an application fee of one hundred dollars (\$100.00) plus fifty dollars (\$50.00) per lot, dwelling unit, or each two thousand (2,000) square feet of gross space.

5.1.3. All applications for final plan approval for major subdivisions or site plans for more than ten thousand (10,000) square feet of gross floor space shall be accompanied by an application fee of twenty dollars (\$20.00) per lot, dwelling unit, or each two thousand (2,000) square feet of gross space.

## **5.2. Escrow account.**

5.2.1. There shall be an additional payment of one hundred fifty dollars (\$150.00) for each lot or dwelling unit or each two thousand square feet of gross space area. This portion of the application fee shall be known as the planning board review escrow account. Payment shall be made by check payable to the City of Waterville, Maine, and shall be deposited in a special interest bearing bank account which is separate and distinct from all other municipal bank accounts. These funds or portions thereof may, from time to time be used by the city at the request of the planning board for purposes to be determined by the planning board in order to make payments for reasonable costs, expenses and services incurred by or contracted for by the city through the planning board at its discretion which relate directly to the review of the subdivision and/or site plan review application.

5.2.2. Such services may include, but need not be limited to, clerical costs, consulting engineering fees, architectural fees, attorney fees, recording fees, and appraisal fees. All such fees must relate to the review of the application pursuant to the review criteria of the City of Waterville ordinances and the laws of the State of Maine, and in addition may be used for providing notice to abutting landowners and conducting public hearings related to the planning board review of the application.

5.2.3. The planning board shall refund all of the remaining monies in the account upon the payment of all costs and services related to the planning board review, as indicated in section 5.2.2. Payment of the remaining money shall be made no later than ninety (90) days after the application for final plan approval has been granted, denied, or granted with conditions. This refund shall be accompanied by a final accounting of expenditures from the fund. The monies in the fund shall not be used by the planning board for any enforcement purposes, nor shall the applicant be liable for costs incurred by or cost of services contracted for by the planning board which exceed the amount deposited to the escrow account.

## **ARTICLE 6. PERFORMANCE GUARANTEES**

### **6.1. Types of guarantee.**

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover total construction of all required improvements, taking into account the time span of the construction schedule and the inflation rate for construction cost:

6.1.1.A. Either a certified check payable to the City of Waterville or a savings account or certificate of deposit naming the city as owner, for the establishment of an escrow account;

6.1.1.B. A performance bond payable to the City of Waterville issued by a surety company, with a BEST's A rating or better, and approved by the municipal officers, or city administrator;

6.1.1.C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision of site plan, which the city may draw from if construction is inadequate, approved by the municipal officers, or city administrator; or

6.1.1.D. An offer of conditional agreement limiting the number of units built or lots sold until all required improvements have been constructed.

6.1.2. The conditions and amount of the performance guarantee shall be determined by the board with the advice of the city engineer, director of public works, municipal officers, and/or city solicitor.

### **6.2. Contents of guarantee.**

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

### **6.3. Escrow account.**

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

### **6.4. Performance bond.**

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

### **6.5. Letter of credit.**

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

### **6.6. Conditional agreement.**

The board, at its discretion, may provide for the subdivider or site plan developer to enter into a binding agreement with the municipality in lieu of other financial performance guarantees. Such an agreement shall provide for the approval of the final plan on the condition that up to four (4) lots may be sold or built upon until either;

6.6.1. It is certified by the board or its agent that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or

6.6.2. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements in an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

### **6.7. Phasing of development.**

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

### **6.8. Release of guarantee.**

Prior to the release of any part of the performance guarantee, the board shall determine to its satisfaction, in part upon the report of the code enforcement officer or city engineer and whatever other agencies and departments may be involved, that the proposed improvements

meet or exceed design and construction requirements for that portion of the improvements for which the release is requested.

### **6.9. Default.**

If, upon inspection, the code enforcement officer or city engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he or she shall so report in writing to the municipal officers, the board, and the subdivider, developer or builder. The municipal officers shall take any steps necessary to preserve the city's rights.

### **6.10. Private roads.**

6.10.1. Private roads are subject to the performance standards contained in 4.3.41, private roads, of the zoning ordinance.

Where the development streets are to remain private roads, the following words shall appear on the recorded plan:

"All listed roads in this Development shall remain private roads to be maintained by the Developer or the lot owners (specify which) and shall not be accepted or maintained by the City of Waterville."

(Ord. No. 4-1993, 6-15-93)

### **6.11. Improvements guaranteed.**

Performance guarantees shall be tendered for all improvements required by these regulations, as well as any other improvements required by the board.

## **ARTICLE 7. REVIEW AND APPROVAL OF MINOR SUBDIVISIONS AND DEVELOPMENT SITES**

### **7.1. General.**

7.1.1. The planning board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision or site plan comply with all or any of the requirements specified for major subdivisions or site plans.

### **7.2. Procedure.**

7.2.1. Within six (6) months after classification of the sketch plan as a minor subdivision or site plan by the planning board, the developer shall submit an application for approval of a final plan at least fourteen (14) days prior to a scheduled meeting of the board. Failure to do so shall require submission of the sketch plan to the planning board for reclassification. The final plan shall conform to the layout shown on the sketch plan plus any recommendations made by the planning board.

7.2.2. Upon receiving an application, the planning board shall issue the applicant a dated receipt. Within thirty (30) days from receipt of an application, the planning board shall notify the applicant in writing either that the application is complete or if incomplete, the specific additional material needed to make a complete application. After the planning board has determined that a complete application for final plan has been submitted, it shall notify the applicant in writing within seven (7) days and begin its full evaluation of the proposed subdivision or site plan.

7.2.3. The developer, or his duly authorized representative, shall attend the meeting of the planning board to discuss the final plan.

7.2.4. The time of submission of the final plan shall be as defined in Article 3, "Official Submittal Date".

7.2.5. The planning board shall hold a public hearing within thirty (30) days of the submission of a completed application. Notice of the day, time, and place of the hearing shall be

given to the applicant and shall be published at least two (2) times in a newspaper of general circulation in the city, the date of the first publication to be at least ten (10) days prior to the date of the hearing.

7.2.6. As soon as the hearing date is established, and at least fourteen (14) days prior to that hearing, the developer shall notify by certified mail, all owners of property abutting the proposed development specifying the location of the proposed development and a general description of the project. The developer shall provide the planning board with a copy of the certified mail receipt of all owners of property abutting the proposed development. Failure to provide all receipts may be the basis for the postponement of the hearing by the planning board.

7.2.7. The planning board shall within thirty (30) days of the public hearing, issue an order denying or granting approval of the plan and/or site plan review permit, or granting approval upon those terms and conditions as it may deem advisable to satisfy the criteria listed in section 1.3 and satisfy any other regulations adopted by the planning board and to protect and preserve the public's health, safety, and general welfare. In issuing its decision, the planning board shall make findings of fact establishing the proposed development does or does not meet the foregoing criteria. Any order, including findings of fact, will be in writing, and will reflect decisions that were made in open sessions.

7.2.8. The time frame outlined in subsection 7.2.7 of this article may be extended for a period not to exceed thirty (30) days, subject to agreement of both the applicant and the board.

### **7.3. Submissions.**

7.3.1. The plan for a minor subdivision or development site shall consist of one original and three (3) copies of one or more maps or drawings drawn to a scale of not more than forty (40) feet to the inch. The original shall be legibly drawn in India ink, on linen, or polyester film with archival photographic image; embossed with the seal of a professional land surveyor as defined in 32 M.R.S.A. section 13901(4), as amended from time to time; contain the signature and address of the person who prepared the plan; provide a space for recording the county, date, time, plan book and page, or file number, and registers attest; provide a title block containing the name of the plan, the record owner's name and address, the location by street and town and date of the plan; and be a minimum size of twelve (12) by eighteen (18) inches, and a maximum size of twenty-four (24) by thirty-six (36) inches in dimension. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a minor subdivision or development site shall include all the information presented on the sketch plan plus the following:

7.3.1.A. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.

7.3.1.B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor as defined in 32 M.R.S.A. § 13901(4), as amended from time to time. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the plan.

7.3.1.C. Identification of the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. All potential freshwater wetlands within the proposed site or subdivision identified on maps regardless of the size of the wetlands.

7.3.1.D. All on-site sewerage and water supply facilities shall be shown designed to meet at least the minimum specifications of these standards and all pertinent state laws and local ordinances. Compliance shall be stated on the plan and signed by the superintendent or engineer of each utility.

7.3.1.E. Proposed name of the development or identifying title, and the name of the municipality in which it is located.

7.3.1.F. The date, north point, graphic map scale, name and address of record owner and developer, and the names of adjoining property owners.

7.3.1.G. A soil erosion and sediment control plan containing the endorsement of the city engineer.

7.3.1.H. Any and all other recommendations and/or stipulations the board may make as a result of the informal preapplication review including, but not limited to, any and all requirements specified for major subdivisions or site plans.

7.3.1.I. Building plans showing, as a minimum, the first floor plan or other outside access plan and all elevations, with indication of proposed material and color of all proposed principal buildings and structures and all accessory buildings and structures.

(Ord. No. 15-1992, 10-20-92; Ord. No. 2-1996, 2-20-96)

#### **7.4. Final approval and filing.**

7.4.1. Upon completion of the requirements in this article and notation to that effect upon the plan, said plan shall be deemed to have final approval and shall be properly signed by a majority of the members of the planning board and a copy of said plan shall be filed by the applicant with the office of the code enforcement officer. The original plan shall then be filed with the Kennebec County Registry of Deeds. Any plan not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the planning board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the planning board to grant an extension which shall not exceed two (2) additional periods of ninety (90) days.

7.4.2. After final approval all projects must be commenced within twelve (12) months and completed within twenty-four (24) months unless a special schedule has been approved by the planning board or an extension has been granted by the planning board. Any project failing to meet the requirements of this section shall be required to resubmit an application for final approval. Upon determining that a subdivision's approval has expired under this paragraph, the board shall place a notice in the registry of deeds to that effect.

#### **7.5. Plan revision after approval.**

7.5.1. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the planning board and endorsed in writing on the plan, unless the plan is first resubmitted and the planning board approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void and the board shall institute proceedings to have the plan stricken from the records of the code enforcement officer and the registry of deeds.

#### **7.6. Public acceptance of streets, recreation areas.**

7.6.1. The approval of the planning board of a final plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan.

7.6.2. When a park, playground, or other recreation area is shown on the plan, approval of the plan shall not constitute an acceptance by the municipality of such areas. The planning board shall require the plan to be endorsed with appropriate notes to this effect. The planning board may also require the filing of a written agreement between the applicant and the municipal officers covering future deeds and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

### **ARTICLE 8. PRELIMINARY PLAN FOR MAJOR SUBDIVISIONS AND DEVELOPMENT SITES**

#### **8.1. Procedure.**

8.1.1. Within six (6) months after classification of the sketch plan as a major subdivision or applicable site plan by the planning board, the developer shall submit an application for the consideration of a preliminary plan. Failure to do so shall require resubmission of the sketch plan to the planning board for reclassification. The preliminary plan shall conform to the layout shown on the sketch plan plus any recommendations made by the planning board.

8.1.2. Upon receiving the application, the planning board shall issue the applicant a dated receipt. Within thirty (30) days of receiving the application, the planning board shall notify the applicant in writing that either the application is complete or, if incomplete, specific additional material needed to make a complete application. If a complete application has been submitted, the planning board shall notify the applicant in writing within seven (7) days and begin its full evaluation of the proposed project.

8.1.3. The developer, or his duly authorized representative, shall attend the meeting of the planning board to discuss the preliminary plan.

8.1.4. The time of submission of the preliminary plan shall be as defined in Article 3, "Official Submittal Date".

8.1.5. The planning board shall hold a public hearing within thirty (30) days of the submission of a complete application. Notice of the date, time and place of the hearing shall be given to the applicant and shall be published at least two (2) times in a newspaper of general circulation in the city, the date of the first publication to be at least ten (10) days prior to the hearing.

8.1.6. As soon as the hearing date is established, and at least fourteen (14) days prior to that hearing, the developer shall notify by certified mail, all owners of property abutting the development subdivision specifying the location of the proposed development and a general description of the project. The developer shall provide the planning board with a copy of the certified mail receipt of all owners of property abutting the proposed development. Failure to provide all receipts may be the basis for the postponement of the hearing by the planning board.

8.1.7. The planning board shall, within thirty (30) days of the public hearing, issue an order denying or granting preliminary approval of the preliminary plans, or granting approval upon those terms and conditions deemed advisable to satisfy the criteria listed in section 1.3 and to satisfy any other regulations adopted by the planning board and to protect the public's health, safety and general welfare. In issuing its decision, the planning board shall make findings of fact establishing that the proposed subdivision or site plan does or does not meet the foregoing criteria. Any order, including findings of fact, will be in writing, and will reflect decisions that were made in open sessions.

8.1.8. When granting preliminary approval to a preliminary plan, the planning board shall state in writing the conditions of such approval, if any, with respect to:

8.1.8.A. The specific changes which it will require in the final plan; and

8.1.8.B. The character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare. The decision of the planning board plus any conditions imposed shall be noted on three (3) copies of the preliminary plan. One copy shall be returned to the applicant, one retained by the planning board and one forwarded to the municipal officers.

8.1.9. The final plan shall be submitted for approval of the planning board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the final plan, the planning board may require additional changes as a result of new information obtained at the public hearing. If the preliminary plan meets all the requirements of the final plan, then that approval constitutes final approval.

## **8.2. Submissions.**

8.2.1. Location map. The preliminary plan shall be accompanied by a location map to show the relation of the proposed development to the adjacent properties and to the general surrounding area. The location map shall show:

8.2.1.A. All the area within two thousand (2,000) feet of any property line of the proposed development, including:

8.2.1.A(1) All existing subdivisions, locations, widths and names of existing or proposed streets, easements, and alleys pertaining to the proposed development and to the adjacent properties.

8.2.1.A(2) An outline of the proposed development site or subdivision, and where applicable, its street system and an indication of the future probable street system of the remaining portion of the tract, if the preliminary plan submitted covers only part of the applicant's entire holding.

8.2.2. Preliminary plans. The preliminary plan shall be submitted in four (4) copies of one or more maps or drawings drawn to scale of not less than one inch equals one hundred (100) feet and not more than one inch equals four hundred (400) feet. The original shall be legibly drawn in India ink, on linen, or polyester film with archival photographic image; embossed with the seal of a professional land surveyor, as defined in 32 M.R.S.A. § 13901(4), as amended from time to time; contain the signature and address of the person who prepared the plan; provide a space for recording the county, date, time, plan book and page, or file number, and registers attest; and provide a title block containing the name of the plan, the record owner's name and address, the location by street and town and date of the plan; and be a minimum size of twelve (12) by eighteen (18) inches, and a maximum size of twenty-four (24) by thirty-six (36) inches in dimension. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a major subdivision or development site shall include all the information presented on the sketch plan plus the following:

8.2.2.A. Proposed project name or identifying title and the name of the municipality, plus the assessor's map and lot numbers.

8.2.2.B. Name and address of record owner, developer and designer of the preliminary plan.

8.2.2.C. Number of acres within the proposed project, location of property lines, existing easements, buildings, watercourses, vegetative cover type, and other essential existing physical features. The location of any trees ten (10) inches or larger in diameter at chest height shall be shown on the plan.

8.2.2.D. Number of lots and lot boundaries.

8.2.2.E. An actual field survey of the boundary of the tract giving complete descriptive data, by bearings and distances, made and certified by a professional land surveyor; as defined in 32 M.R.S.A. § 13901(4), as amended from time to time. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each corner.

8.2.2.F. The proposed lot lines with building plans showing, as a minimum, the first floor plan or other outside access plan and all elevations, with indication of proposed material and color of all proposed principal and accessory buildings and structures.

8.2.2.G. Date, true north point and graphic scale.

8.2.2.H. Contour lines at intervals of not more than five (5) feet or at such intervals as the planning board may require, based on United States Geological Survey datum of existing grades where change of existing ground elevation will be five (5) feet or more.

8.2.2.I. A copy of the deed upon which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.

8.2.2.J. A copy of any covenants or deed restrictions to be proposed by the developer intending to cover all or part of the lots in the project.

8.2.2.K. The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.

8.2.2.L. The provisions of the zoning ordinance applicable to the area to be developed and any zoning district boundaries affecting the project.

8.2.2.M. The location and size of any existing sewers and water mains, culverts and drains on the property to be developed.

8.2.2.N. Connection with existing sanitary sewerage system or alternative means of treatment and disposal proposed; all to be in conformity with the requirements of section 12.6.5.

8.2.2.O. If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil and groundwater condition, depth to maximum groundwater level, location and results of official on-site soils investigation report by a site evaluator certified by the State of Maine Department of Human Services. This report shall contain the types of soil, location of test sites and proposed location and design of the most appropriate and suitable subsurface sewage disposal system for each lot in the subdivision, and be signed by the site evaluator.

8.2.2.P. Identification of soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation National Cooperative Soil Classification. All potential freshwater wetlands within the proposed site or subdivision identified on maps regardless of the size of the wetlands.

8.2.2.Q. A soil erosion and sediment control plan containing the endorsement of the city engineer.

8.2.2.R. All subdivisions with more than four (4) dwelling units, lots, or rental units and all site plan review projects which will generate more than a daily average of five hundred (500) gallons of wastewater of any type, or when determined by the planning board to be required because of the unique characteristics of the plans and/or site, shall submit a hydrogeologic assessment to be in conformity with section 4.3.18 of the zoning ordinance prepared by the certified geologist with demonstrated groundwater hydrology impact assessment experience and training when the site is not served by a public sewer and

8.2.2.R(1) Any part of the subdivision or site is located over or within three hundred (300) feet of a sand and gravel aquifer as shown on the map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers", by the Maine Geological Survey, 1985, or as updated; or

8.2.2.R(2) The subdivision contains lots of five (5) acres or less in total area; or

8.2.2.R(3) The subdivision has an average density of less than five (5) acres per dwelling unit.

8.2.2.S. Connection with existing water supply or alternative means of providing water supply to the proposed subdivision; all to be in conformity with the requirements of section 12.5 and section 4.3.18.H. of the zoning ordinance.

8.2.2.T. A plan for the disposal of surface drainage waters, prepared by a registered professional engineer. Curbing is required and roadside open ditches are not acceptable.

8.2.2.U. Preliminary designs of culverts which map [may] be required.

8.2.2.V. If any portion of the subdivision or plan is subject to storm flooding that fact and portion shall be clearly shown and identified. Storm flooding shall mean standing water occurring on saturated soils after a heavy rain or land inundated when a surface water body overflows its banks.

8.2.2.W. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard area and the one hundred year flood elevation shall be delineated on the plan. If the subdivision or plan is subject to Appendix D, Floodplain Development Plan, Revised Code, compliance with that ordinance shall be evidenced.

8.2.2.X. Location of all existing and/or proposed utilities, on or adjacent to the development including size and elevation of buried or underground utilities.

8.2.2.Y. Location, names and present widths of existing proposed streets, highways, easements, building lines, alleys, parks and other public open spaces.

8.2.2.Z. The width and location of any streets or other public ways or places shown upon the official map and the comprehensive plan, if any, within the project area and the width, location, grades, and street profiles of all streets or other public ways proposed by the applicant.

8.2.2.AA. Typical cross-sections of the proposed grading for roadways and sidewalks.

8.2.2.AB. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

8.2.2.AC. The location of all natural features or site elements to be preserved.

8.2.2.AD. The location of any open space to be preserved and an indication of its improvement and management.

8.2.2.AE. Any development or subdivision which shall generate more than one hundred (100) vehicle trips per day shall submit a traffic impact analysis report by a professional engineer which demonstrates that the street giving access to the lot and neighboring streets can be expected to carry traffic to and from the development, has adequate traffic carrying capacity or can be suitably improved to accommodate the amount and types of traffic generated by the proposed use. The analysis shall demonstrate that the development shall neither increase the volume capacity ratio of any street above 0.8 nor reduce the street level of service to "D" or below determined by using the analysis procedure set forth in the 1985 Highway Capacity Manual Special Report 209 as published by the transportation board, and as hereafter amended.

8.2.2.AF. Evidence that all state law and performance standards contained in the City of Waterville land use ordinances can be met and that all of the subdivision criteria in 30-A MRSA section 4404, as amended from time to time, will be satisfied.  
(Ord. No. 15-1992, 10-20-92; Ord. No. 2-1996, 2-20-96)

## **ARTICLE 9. FINAL PLANS FOR MAJOR SUBDIVISIONS AND DEVELOPMENT SITES**

### **9.1. Procedure.**

9.1.1. The applicant shall within six (6) months after the preliminary approval of the preliminary plan, file with the planning board an application for approval of the final plan in the form described herein. If the final plan is not submitted to the planning board within six (6) months after the approval of the preliminary plans, the planning board may refuse, without prejudice, to act on the final plan and require resubmission of the preliminary plan.

9.1.2. Upon receiving the application, the planning board shall give the applicant a dated receipt. Within thirty (30) days of receiving the application, the planning board shall notify the applicant in writing that either the application is completed or if incomplete, specific additional material needed to make a complete application. After the planning board has determined that a completed application for a final plan has been submitted it shall notify the applicant in writing within seven (7) days and begin its full evaluation of the proposed project.

9.1.3. The time of submission of the final plan shall be as defined in Article 3, Definitions, "Official submittal date".

9.1.4. The developer or his duly authorized representative shall attend the meeting of the planning board to discuss the final plan.

9.1.5. If the proposed development requires the approval and/or license from the State of Maine Department of Environmental Protection or other State of Maine agency, that approval and/or license shall be secured in writing before official submission of the final plan.

9.1.6. Water supply system proposals contained in the plan shall be in compliance with section 4.3.18.H. of the zoning ordinance, and shall be approved in writing by:

9.1.6.A. The Kennebec Water District if existing public water service is to be used; or

9.1.6.B. The State of Maine Department of Human Services if the subdivider proposes to provide a central water supply system; or

9.1.6.C. A civil engineer registered in the State of Maine if individual wells serving each building site are to be used. The board shall also require the subdivider to submit the results of water quality tests as performed by the Maine Department of Human Services.

Such approval shall be secured before official submission of the final plan.

9.1.7. Sewage disposal system proposals contained in the plan shall be properly endorsed and approved in writing by:

9.1.7.A. The Waterville Sewerage District if existing public disposal systems are to be used; or

9.1.7.B. The State of Maine Department of Human Services if a separate central sewage collection and treatment system is to be utilized, or if individual septic tanks are to be installed by the developer.

9.1.7.C. The Maine Department of Environmental Protection if the waste is to be discharged, treated or untreated, into any body of water, or if the project in any way falls within the department's jurisdiction.

Such approval shall be secured before official submission of the final plan.

9.1.8. The planning board shall hold a public hearing within thirty (30) days of the submission of a complete application for a final plan approval. Notice of the date, time, and place of the hearing shall be given to the applicant and shall be published at least two (2) times in a newspaper of general circulation in the municipality in which the project is to be located, the date of the first publication to be at least ten (10) days prior to the hearing.

Notice of the hearing shall also be posted in at least three (3) prominent places at least ten (10) days prior to the hearing.

9.1.9. As soon as the hearing date is established, and at least fourteen (14) days prior to that hearing, the developer shall notify by certified mail, owners of the property abutting the project, specifying the location of the proposed project and its general description. The developer shall provide the planning board with a copy of the certified mail receipt of all owners of property abutting the proposed development. Failure to provide all receipts may be the basis for the postponement of the hearing by the planning board.

9.1.10. The planning board shall, within thirty (30) days of the public hearing, issue an order denying or granting final approval of the final plan, and/or site plan review permit, or granting approval upon those terms and conditions deemed advisable to satisfy the criteria listed in section 1.3 and to satisfy any other regulations adopted by the planning board and to protect the public's health, safety and general welfare. In issuing its decision, the planning board shall make findings of fact establishing that the proposed subdivision or site plan does or does not meet the foregoing criteria. Any order, including findings of fact, will be in writing, and will reflect decisions that were made in open sessions.

9.1.11. After final approval all projects must be commenced within twelve (12) months and completed within twenty-four (24) months unless a special schedule has been requested of and approval by the planning board or an extension has been granted by the planning board. Any project failing to meet the requirements of this section shall be required to resubmit an application for final approval.

## **9.2. Submissions.**

9.2.1. The final plan shall consist of four (4) copies of one or more maps or drawings which shall be printed or reproduced in the same manner as the preliminary plan. Space shall be reserved thereon for endorsement by all appropriate agencies. The final plan shall show:

9.2.1.A. All of the information presented on the preliminary plan and location map and any amendments thereto suggested or required by the board.

9.2.1.B. The name, registration number and seal of the professional land surveyor, as defined in M.R.S.A. § 13901(4), as amended from time to time, who prepared the plan, and the date it was prepared.

9.2.1.C. Street names and lines, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public use.

9.2.1.D. Street numbers for each lot to be given out by the city engineer.

9.2.1.E. Sufficient data acceptable to the city engineer to determine readily the location, bearing and length of every street line, lot line, boundary line and to reproduce such lines upon the ground. These shall be tied to reference points previously established.

9.2.1.F. The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearings for each street, existing and proposed.

9.2.1.G. By proper designation, all public open space for which offers of cession are made by the applicant and those spaces to which title is reserved by him.

9.2.1.H. Lots and blocks within the development numbered in accordance with local practice.

9.2.2. There shall be submitted to the board with the final plan:

9.2.2.A. Written offers of cession to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the applicant are to be maintained.

9.2.2.B. Written evidence of a performance guarantee as required by Article 6 to secure completion of all improvements required by the board.

9.2.2.C. Written evidence that the municipal officers are satisfied with the legal sufficiency of documents referred to in paragraphs 9.2.2.A and B above. Such written evidence shall not constitute an acceptance by the municipality of any public open space referred to in paragraph 9.2.2.A above.

(Ord. No. 2-1996, 2-20-96)

### **9.3. Final approval and filing.**

9.3.1. Upon completion of the requirements in Articles 8 and 9 above and notation to that effect upon the plan, or by incorporation by reference to an attached and identifiable document, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the planning board and shall be filed by the applicant with the office of the code enforcement officer. The plan shall then be filed by the developer with the Kennebec County Registry of Deeds. Any plan not so filed or recorded within ninety (90) days of the date upon which such plan is approved and signed by the planning board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the planning board to grant an extension which shall not exceed two (2) additional periods of ninety (90) days.

(Ord. No. 4-1994, 5-3-94)

### **9.4. Plan revision after approval.**

9.4.1. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the planning board and endorsed in writing on the plan, unless the plan is first resubmitted and the planning board approves any modifications. In the event that a final plan is recorded without complying with this requirement, the same shall be considered null and void and the board shall institute proceedings to have the plan stricken from the records of the municipal officers and the registry of deeds.

### **9.5. Public acceptance of streets, recreation areas.**

9.5.1. The approval of the planning board of a final plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement or other open space shown on such plan.

9.5.2. When a park, playground, or other recreation area shall have been shown on the plan, approval of the plan shall not constitute an acceptance by the municipality of such areas. The planning board shall require the plan to be endorsed with appropriate notes to this effect. The planning board may also require the filing of a written agreement between the applicant and the municipal officers covering future deeds and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

## **ARTICLE 10. VIOLATIONS, ENFORCEMENT AND FINES**

### **10.1. Inspection of required improvements.**

10.1.1. At least five (5) days prior to commencing a major phase of construction of required improvements, such as, but not so limited to, water, sanitary sewer, and storm drainage systems, and roads, the developer or building shall notify the code enforcement officer

and city engineer, in writing of the time when he proposes to commence construction of those improvements, so that, the municipal officers will cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of the required improvements, and to assure the satisfactory completion of improvements and utilities required by the board.

10.1.2. 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 developer, he shall so report in writing to the municipal officers, building inspector, planning board and the developer or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

10.1.3. If at any time before or during construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as, but not limited to, encountering hidden outcrops of bedrock or natural springs. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the board. Revised plans shall be filed with the city. For major modifications, such as, but not limited, relocation of rights-of-way, property boundaries, or changes of grade by more than one percent, the developer shall obtain permission to modify the plans from the board.

10.1.4. At the close of each summer construction season, the city shall, at the expense of the developer, have the site inspected by a qualified individual. By December 1st of each year during which construction was done on the site, the inspector shall submit a report to the board based on that inspection, addressing whether stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed and appear adequate to do the job they were designed for. The report shall also include a discussion of and recommendations on any problems which were encountered.

10.1.5. Prior to the sale of any lot, the developer shall provide the board with a letter from a registered land surveyor, stating that all monumentation shown on the plan has been installed.

10.1.6. Upon completion of street construction and prior to a vote by the municipal officers to accept the dedication of a street as a town way, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed city way meets or exceeds the design and construction requirements of this ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

10.1.7. The developer or builder shall be required to maintain all improvements and to provide for snow removal on streets and sidewalks until acceptance of the improvements by the legislative body.

## **10.2. Violations and enforcement.**

10.2.1. No plan of a division of land within the municipal boundaries which would constitute a subdivision as defined by 30-A MRSA section 4404, as amended from time to time, shall be recorded or filed in the registry of deeds until a final plan has been approved by the board in accordance with this ordinance. Approval for the purpose of recording shall appear in writing on the face of the plat or plan.

10.2.2. No person, firm, corporation, board, or legal entity may convey, offer or agree to convey and property rights in a subdivision which has not been approved as required by the board and recorded in the registry of deeds.

10.2.3. No person, firm, corporation, or other legal entity may convey, offer or agree to convey any property rights in an approved subdivision which is not shown on the final plan as a separate lot.

10.2.4. Any person, firm, corporation, or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this ordinance, shall be punished by a fine of not less than one hundred dollars (\$100.00) and not more than two thousand five hundred dollars (\$2,500.00) for each such conveyance, offering, or agreement. The City of Waterville may institute proceedings to enjoin the violation of this section, and may collect attorney's fees and court costs if it is the prevailing party.

10.2.5. Any person, firm, corporation or other legal entity who violates the provisions of this ordinance or the conditions of a permit, shall be guilty of a civil violation and upon conviction shall be fined not less than one hundred dollars (\$100.00) and not more than two thousand five hundred dollars (\$2,500.00). Each day such a violation continues shall constitute a separate violation, to a maximum of twenty-five thousand dollars (\$25,000.00). All fines shall be paid to the City of Waterville.

10.2.6. No public utility, water district, sanitary district, or any utility company of any kind shall provide any service to any lot in a development for which a final plan has not been approved by the board.

10.2.7. Development of a subdivision or applicable site without board approval shall be a violation of law. Development includes, but need not be limited to, grading or construction of roads, grading of land or lots, removal of trees six (6) inches in diameter measured at four and one-half (4 1/2) feet from the ground, or construction of buildings which require a final plan approved as provided in this ordinance and recorded in the registry of deeds.

10.2.8. 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 multifamily development shall be occupied before the street upon which the unit is accessed is completed in accordance with this ordinance.

10.2.9. The code enforcement officer or city engineer, upon finding that any provision of this ordinance or the condition of a permit issued under this ordinance is being violated, is authorized to issue notices of violations, orders to correct, and schedules to correct. In carrying out his duties, the code enforcement officer may enter onto any property at reasonable hours and to enter any building with the consent of the property owner, occupant or agent, to inspect the property for compliance with these regulations. The City of Waterville acting through the city council may institute proceedings to enjoin the violation of this ordinance.

10.2.10. The administration of this ordinance shall be the responsibility of the planning board, and its enforcement shall be the responsibility of the code enforcement officer or city engineer. The administration and enforcement of these regulations shall not be deemed to infringe upon the authority of the city council to lay out and accept streets.

## **ARTICLE 11. GENERAL REQUIREMENTS**

### **11.1.**

In reviewing applications for a subdivision or site plan, the board shall consider the following general standards and shall make written findings of fact that each applicable standard has been met prior to the approval of the final plan. In all instances, the burden of proof shall be upon the applicant.

### **11.2. Conformity with comprehensive plan.**

Any proposed subdivision or site plan shall be in conformity with the comprehensive plan or other policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

### **11.3. Relation of development to community services.**

Any proposed development shall be reviewed by the board with respect to its effect upon existing services and facilities.

#### **11.4. Retention of proposed public sites and open spaces.**

11.4.1. In subdividing property, the developer shall give consideration to suitable sites for schools, parks, playgrounds, and other common areas for public use so as to conform to the comprehensive plan. Another provision for these uses should be indicated on the preliminary plat in order that it may be determined when and in what manner these areas will be dedicated to or acquired by the appropriate agency.

11.4.2. The board may further require that the developer provide space for future municipal uses, in accordance with a comprehensive plan or policy statement, on a reimbursable basis for a five-year option after which the space may be sold for other development.

11.4.3. In any subdivision other than a cluster development, the planning board may request that the developer either provide up to ten (10) percent of his total area as open space, or make a payment in lieu of dedication into a municipal land acquisition fund.

11.4.4. Land reserved for open space purposes shall be of a character, configuration, and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least two hundred (200) feet, and have no major dimensions less than two (200) feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the board may deem suitable at no less than twenty-five (25) feet of road frontage. The configuration of such sites shall be deemed adequate by the board with regard to scenic attributes to be preserved, together with sufficient areas for trails and lookouts, where necessary and appropriate.

11.4.5. Reserved land acceptable to the board and developer may be dedicated to the municipality as a condition of approval.

11.4.6. Land reservation shall be calculated on the basis of one thousand three hundred (1,300) square feet per dwelling unit proposed, or three (3) acres per one hundred (100) dwellings units. Where land is unsuitable or insufficient in amount or when the planning board determines that land should be acquired in another location, a payment in lieu of dedication shall be calculated at the market value of land at the time of the subdivision, as determined by the municipal tax assessor, and deposited into a municipal land acquisition fund.

#### **11.5. Preservation of natural and historic features.**

11.5.1. The board may require that a proposed subdivision or site plan design include a landscape plan that will show the preservation of existing trees ten (10) inches or more at chest height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer. The street and lot layout should be adapted to topography. Extensive grading and filling shall be avoided as far as possible.

#### **11.6. Land not suitable for development.**

11.6.1. The board shall not approve such portions of any proposed development that:

11.6.1.A. Are located within the one hundred year frequency floodplain as identified by an authorized federal or state agency.

11.6.1.B. Are located on land which must be filled or drained or on land created by diverting a watercourse; except the board may grant approval if a central sewage collection and treatment system is provided.

11.6.1.C. Employs septic sewage disposal and is located on soils rated poor or very poor by the Soil Suitability Guide for Land Use Planning in Maine unless the lot size is a minimum of forty

thousand (40,000) square feet and a favorable soil suitability study is conducted by a registered professional engineer for the subdivision as a whole, and said study is approved by the State of Maine Department of Human Services, Division of Health Engineering. For soils rated fair or better, the forty thousand (40,000) square foot restriction may be waived if a soil suitability study conducted and approved as stated above is favorable.

### **11.7. Blocks.**

11.7.1. The length, width and shape of blocks shall be determined with regard to:

11.7.1.A. Provision of adequate building sites suitable to the special needs of the type of use contemplated.

11.7.1.B. Zoning requirements as to lot sizes and dimensions.

11.7.1.C. Needs for convenient access, circulation, control and safety of street traffic.

11.7.1.D. Limitations and opportunities of topography.

11.7.2. In blocks exceeding eight hundred (800) feet in length, the planning board may require the reservation of a twenty-foot wide easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a four-foot wide paved footpath be included. The planning board shall require the subdivider to provide for the proper maintenance of any such easement.

### **11.8. Lots.**

11.8.1. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the development and for the type of development and use contemplated.

11.8.2. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type and use of the development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.

11.8.3. All lots shall meet the minimum requirements of the zoning ordinance for the zoning district in which they are located. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation.

11.8.4. Double frontage lots and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or disadvantageous use.

11.8.5. Side lot lines shall be substantially at right angles or radial to street lines wherever possible.

11.8.6. The subdivision of tracts into parcels substantially larger than the required minimum lot size shall be laid out in such a manner as to either provide for or preclude future resubdivision in accordance with the requirements contained in this ordinance, as the board may require. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.

11.8.7. If a lot on one side of a stream, road, or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of that barrier to meet the minimum lot size.

11.8.8. Odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. The ratio of lot length to width shall not be more than three to one (3:1).

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

lot numbers. The lot numbering shall conform with Chapter 22, sections 22-21, 22-22, and 22-23 of the Waterville Code.

### **11.9. Easements for natural drainage ways.**

11.9.1. Where a development is traversed by a natural watercourse, drainage way, channel, stream, or where the board feels that surface water runoff to be created by the development should be controlled, there shall be provided a storm water easement or drainage right-of-way with swales, culverts, catch basins, or other means of channeling surface water within the subdivision and over other properties. This will conform substantially with the lines of that watercourse and be of such width or construction or both as will assure that no flooding occurs and that all stormwater can be disposed of properly. That easement or right-of-way shall be not less than thirty (30) feet in width.

11.9.2. The developer shall provide a statement from the designing engineer that the proposed subdivision or development will not create erosion, drainage or runoff problems either in the project or in other properties. Where the peak runoff from the project onto other properties is increased either in volume or duration, easements from the abutting property owners allowing for such additional discharge shall be obtained.

11.9.3. A stormwater drainage plan showing ditching, culverts, storm drains, easements, and other proposed improvements, shall be submitted and approved.

### **11.10. Utilities.**

11.10.1. The board may require that all utilities be installed underground.

11.10.2. The size, type and location of public utilities such as, but not so limited to, street lights, electricity, telephones, gas lines, and fire hydrants, shall be shown on the plan and approved by the board.

11.10.3. All underground utilities and services therefrom shall be installed prior to the installation of the final gravel base of the road to prevent continued destruction of the road as houses are constructed.

### **11.11. Additional requirements.**

11.11.1. Street trees, esplanades, and open green spaces may be required at the discretion of the planning board. Where such improvements are required, they shall be incorporated in the final plan and executed by the developer as construction of the development progresses.

11.11.2. The development design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least twenty (20) feet wide between abutting properties that are so endangered, and wider if zoning standards required.

### **11.12. Required improvements.**

11.12.1. The following are required improvements: Monuments, street signs, streets, sidewalks, water supply, sewage disposal and stormwater management, except where the board may waive or vary such improvements in accordance with the provisions of these standards.

## **ARTICLE 12. DESIGN STANDARDS**

### **12.1. Monuments.**

12.1.1. Permanent monuments shall be set at the completion of construction at all corners and angle points of the development's boundaries, and at all street intersections and points of curvature.

12.1.2. Monuments shall be stone or concrete three (3) feet in length and located in the ground at final grade level, and indicated on the final plan. After they are set, drill holes one-half inch deep shall locate the point or points described above.

## **12.2. Street signs.**

12.2.1. Street which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the municipal officers.

12.2.2. Street name signs shall be furnished and installed by the city.

## **12.3. Streets.**

12.3.1. Classification. In accordance with the comprehensive plan of the municipality, and for the purposes of these standards, streets are classified by function as follows:

12.3.1.A. Arterial streets: Arterial streets serve primarily as major traffic ways for travel between and through towns.

12.3.1.B. Collector streets: Collector streets serve as feeders to arterial streets, as collectors of traffic from local streets, for circulation and access in commercial and industrial areas, and may be the principal entrance streets of a residential development providing circulation within or through the development.

12.3.1.C. Local streets: Local streets are used primarily for access to abutting residential, commercial, or industrial properties, and do not have the potential of becoming collectors.

12.3.2. Layout:

12.3.2.A. Proposed streets shall conform, as far as practical, to such comprehensive plan or policy statement as may have been adopted, in whole or in part, prior to the submission of a preliminary plan.

12.3.2.B. All streets in the subdivision shall be so designed that, in the opinion of the board, they will provide safe vehicular traffic while discouraging movements of through traffic.

12.3.2.C. The arrangement, character, extent, width, grade, and location of all streets shall be considered in their relation to existing or planned streets, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such streets. Grades of streets shall conform as closely as possible to the original topography.

Wherever existing or other proposed streets, topography and public safety will permit, streets shall run in east/west direction to maximum access for solar energy utilization.

12.3.2.D. In the case of dead-end streets, where needed or desirable, the board may require the reservation of a twenty-foot side easement in the line of the street to provide continuation of pedestrian traffic or utilities to the next street.

12.3.2.E. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the city under conditions approved by the planning board.

12.3.2.F. Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased by such amount on each side as may be deemed necessary by the board to assure the free flow of through traffic without interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district. In no case shall the street have a right-of-way width less than sixty (60) feet nor have less than two (2) twelve-foot travel lanes and two (2) eight-foot parking lanes.

12.3.2.G. Adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use, as required by section 4.3.25 of the zoning ordinance.

12.3.2.H. Where a subdivision borders on or contains a railroad right-of-way, the planning board may require a street approximately parallel to and on each side of such right-of-way, at a distance suitable for the appropriate use of the intervening land, as for park purposes in residential districts, or for commercial or industrial purposes in appropriate district. Such distances shall also be determined with due regard for approach grades and future grade separations.

12.3.2.I. Where a subdivision borders an existing narrow road (below standards set herein) or when the comprehensive plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivider shall be required use of some of the land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the plan, marked "Reserved for Road Realignment (or Widening) Purposes." It shall be mandatory to indicate such reservation on the plan when a proposed widening or realignment is shown on the official map. Land reserved for such purposes may not be counted in satisfying setback or yard area requirements of the zoning ordinance, including those requirements related to cluster development and open space.

When that widening or realignment is indicated on the official map, the reserved area shall not be included in any lot, but shall be reserved to be deeded to the municipality or state.

12.3.2.J. Where a subdivision abuts or contains an existing or proposed arterial street, the board may require marginal access streets ( street parallel to arterial street providing access to adjacent lots), reverse frontage (that is, frontage on a street other than the existing or proposed arterial street) with screen planting contained in a nonaccess reservation along the rear property line, or such other treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

The board may deny residential lot vehicular access directly to the arterial street. This shall be noted on the plan and in the deeds with any lot with the frontage on the arterial street.

12.3.2.K. Any subdivision containing more than twenty-one (21) lots shall have at least two (2) street connections with existing public streets shown on the official map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street serving more than twenty-one (21) dwelling units shall have at least two (2) street connections leading to existing public streets shown on the official map, or streets on an approved subdivision for which performance guarantees have been filed and accepted.

12.3.2.L. Entrances onto existing or proposed collector streets shall not exceed a frequency of one per two hundred fifty (250) feet of frontage. Entrances onto existing or proposed arterial streets shall no exceed a frequency of one per five hundred (500) feet of street frontage.

12.3.2.M. Local streets in the subdivision shall be so laid out that their use by through traffic will be discourage.

12.3.3. Design and construction standards:

12.3.3.A. All streets in a subdivision shall be designed and constructed to meet the following standards for streets according to their classification as determined by the planning board, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances:

**DESIGN AND CONSTRUCTION  
STANDARDS FOR STREETS**

TABLE INSET:

|    | Item                       | Arterial Streets | Collector Streets | Local Streets |
|----|----------------------------|------------------|-------------------|---------------|
| 1. | Minimum right-of-way width | 80'              | 66'               | 50'           |

|     |  |                                |         |          |
|-----|--|--------------------------------|---------|----------|
| 2.  | Minimum width of pavement*                                   | 44'                            | 32--36' | 24'      |
| 3.  | Minimum grade  | 0.5%                           | 0.5%    | 0.5%     |
| 4.  | Maximum grade  | 5%                             | 6%      | 6%       |
| 5.  | Maximum grade at intersections                               | 2% within 75' of intersections |         |          |
| 6.  | Minimum angle of intersections                               | 90 degrees                     |         |          |
| 7.  | Minimum width of shoulders each side, as required            | 9'                             | 6'      | 4'       |
| 8.  | Minimum centerline radii on curves                           | 800'                           | 300'    | 200'     |
| 9.  | Minimum tangent length between reverse curves                | 300'                           | 200'    | 100'     |
| 10. | Road base (minimum)  | 27"                            | 24"     | 18"      |
|     | Subbase--Bank gravel   | 18"                            | 18"     | 15"      |
|     | Upper base--   | 6"                             | 4"      | 3"       |
|     | Process gravel   | Crushed                        | Crushed | Screened |
| 11. | Bituminous paving  | 4"                             | 3.5"    | 3"       |
| 12. | Road crown (minimum)   | 3/8"( 1/4") per 1 foot         |         |          |
| 13. | Sidewalks width (minimum where required)                     | 5'                             | 5'      | 5'       |
|     | Base course (gravel)   | 8"                             | 8"      | 8"       |
|     | Surface  | 2 1/2" bituminous hot-top      |         |          |
| 14. | Dead-end or cul-de-sac streets width                         |                                |         | 50'      |
|     | Length, not more than  |                                |         | 1000'    |
|     | Radii of turn-around at enclosed end property line (minimum) |                                |         | 65'      |
|     | Pavement (minimum)   |                                |         | 50'      |
| 15. | Property line radii at intersection (minimum)                | 20'                            | 10'     | 10'      |
| 16. | Curb radii at intersections                                  | 30'                            | 20'     | 15'      |

\*In addition to the minimum pavement width, all streets in a mobile home park shall have a cleared area (no vegetation or appurtenances over three (3) feet high) of forty (40) feet within the right-of-way to provide for maneuvering of mobile homes.

Any changes or modifications of the above must be by written approval of the city engineer and in accord with Article 13 herein.

Under drain may be required on collector and arterial streets, depending upon groundwater conditions, by the city engineer.

12.3.3.B. Grades of all streets shall conform in general to the terrain and shall be in conformity with section 12.3.3.

12.3.3.C. All changes in grade shall be connected by vertical curves of such length and radius as meet with the approval of the board so that clear visibility shall be provided for a distance of two hundred (200) feet.

12.3.3.D. Intersections of streets shall be at angles as close to ninety (90) degrees as possible and in no case shall two (2) streets intersect at an angle smaller than sixty (60) degrees. To this end, where one street approaches another between sixty (60)--ninety (90) degrees, the former street should be curved approaching the intersection.

12.3.3.E. Cross (four-cornered) street intersections shall be avoided insofar as possible, except as shown on the comprehensive plan or at other important traffic intersections. A distance of at least two hundred (200) feet shall be maintained between center lines of offset intersecting streets.

12.3.3.F. Street lines at intersections shall be cut back to provide for curb radii in conformity with section 12.3.3.

12.3.3.G. Street intersections and curves shall be so designed as to permit adequate visibility for both pedestrian and vehicular traffic. That portion of any corner lot which is necessary to allow twenty-foot sight lines between intersecting streets shall be cleared of all growth (except isolated streets) and obstructions above the level of three (3) feet higher than the center line of the street. If directed, ground shall be excavated to achieve visibility.

12.3.3.H. A dead-end street or cul-de-sac shall not exceed one thousand (1,000) feet in length and shall be provided with a suitable turnaround at the closed end. When a turning circle is used, it shall have a minimum outside curb radius of sixty-five (65) feet.

12.3.3.I. All streets shall be provided with adequate drainage facilities to provide for the removal of storm water to prevent flooding of the pavement and erosion of adjacent surfaces.

12.3.3.J. Side slopes shall not be steeper than three (3) feet horizontal and one foot vertical, graded, loamed, (six (6) inches compacted) and seeded as required.

12.3.3.K. Streets shall be rough-graded as required by the city engineer. Existing first magnitude trees shall be saved wherever possible.

12.3.3.L. Street curbs and gutters shall be required on all streets.

12.3.3.M. All roadways within the subdivision shall be constructed according to road specifications herein as overseen by the city engineer.

#### 12.3.4. Planting:

12.3.4.A. All esplanade or planting strip areas at sides of streets shall receive at least three (3) inches of compacted topsoil (loam) free of stones over one inch in diameter, sods and clay. Base material shall be removed prior to placement of topsoil.

12.3.4.B. Planting strips to be limed at the rate of one pound per ten (10) square feet and fertilized at the rate of one pound of a 10-10-10 fertilizer per fifty (50) square feet or equivalent and seeded with a conservation mix endorsed by the Kennebec County Soil and Water Conservation District.

12.3.4.C. When required by the planning board, street trees shall be planted in the esplanade areas of all new streets.

12.3.4.D. Trees of the first magnitude (birch, beech, linden, oak, pine, sugar maple, basswood) shall be planted at forty- to sixty-foot intervals.

12.3.4.E. Trees of second magnitude (hawthorn, flowering crabapple, etc.) may be planted at intervals of less than forty (40) feet.

## **12.4. Sidewalks.**

12.4.1. Sidewalks shall be installed at the expense of the developer where the development abuts or fronts onto an arterial street, and at collector streets as the board may deem necessary to provide adequate pedestrian safety.

## **12.5. Water supply.**

12.5.1. A public water supply system complete with fire hydrants shall be installed at the expense of the developer, or, if in the opinion of the board, service to each lot by a public water system is not feasible, the board may allow individual wells or a private community water system to be installed, also at the expense of the developer and shall comply with section 4.3.18.H of the zoning ordinance.

12.5.2. The developer shall demonstrate by actual test or by a signed affidavit from an authorized representative of the servicing water company that water meeting the current Maine Department of Human Services, Bureau of Health, Division of Health and Engineering, Drinking Water Control Program Rules Related to Drinking Water can be supplied to the development at a rate of at least three hundred fifty (350) gallons per day per dwelling unit and at an adequate pressure and volume for fire-fighting purposes.

12.5.3. Storage shall be provided as necessary to meet peak domestic demands and fire protection needs.

12.5.4. The developer shall demonstrate in the form of signed affidavits from the servicing water company or by engineering reports prepared by a civil engineer registered in the State of Maine that the proposed development will not result in an undue burden on the source, treatment facilities or distribution system involved. The developer shall be responsible for paying the costs of modifying the source, treatment facility, or distribution system necessary to serve the development.

12.5.5. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company and the fire chief.

12.5.6. Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only if it is demonstrated by the developer not to be economically or technically feasible to develop other groundwater sources. Dug wells shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the board, the developer shall prohibit dug wells by deed restrictions and a note on the plan.

12.5.7. If a central water supply system is provided by the developer, location and protection of the source, and design, construction and operation of the distribution system and appurtenances and treatment facilities shall be approved by the department of human services and shall conform to the standards of the Maine Rules Relating to Drinking Water.

12.5.8. The developer shall construct ponds and dry hydrants as necessary to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. The board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction.

## **12.6. Sewage disposal.**

12.6.1. A sanitary sewer system shall be installed at the expense of the developer, along with service stubs to the right-of-way line of the street at each proposed lot or, if in the opinion of the board, the developer has demonstrated that service to each lot by a sanitary sewer system is not feasible, the board may allow individual septic tanks to be used.

12.6.2. The developer shall submit evidence of soil suitability for a subsurface sewage disposal prepared by a licensed site evaluator in compliance with the requirements of the State of Maine Subsurface Wastewater Rules. In addition, on lots in which the limiting factor has been identified as being within twenty-four (24) inches of the surface, a second site with suitable soils

shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan, and restricted so as not to be built upon.

12.6.3. In no instance shall a disposal area be permitted on soils or on a lot which requires a new system variance from the subsurface wastewater disposal rules.

12.6.4. The developer shall submit plans for sewage disposal designed by a professional civil engineer in full compliance with the requirements of the State of Maine Plumbing Code and/or Department of Environmental Protection.

12.6.5. Where a public sanitary sewer line is located within one thousand five hundred (1,500) feet of a proposed subdivision at its nearest point, the subdivider at his expense shall connect with that sanitary sewer line with a main not less than eight (8) inches in diameter, provided that the appropriate municipal agencies certify that extending the services will not be a burden on the system.

12.6.6. The sewer district shall review and approve in writing the construction drawings for the sewage system.

## **12.7. Stormwater management.**

12.7.1. All new construction and development shall provide an adequate stormwater control and conveyance system, including appurtenances such as sediment and detention basins as needed, and catch basins, manholes, and piped or professionally designed ditch conveyance systems to assure that stormwaters discharged from the site are in compliance with the guidelines contained in section 1.3 and all other requirements of this ordinance.

12.7.2. The developer shall provide a statement from a civil engineer, registered in the State of Maine, that the proposed development will not create erosion, drainage or runoff problems either in the development or in adjacent properties. The developer shall submit a surface drainage plan with profiles and cross-sections drawn by a registered professional engineer. This plan shall show culverts, ditches, easements, and other proposed improvements. The plan shall also contain a soil erosion and sediment control plan.

12.7.3. All stormwater systems within the development shall be designed to meet the criteria of a twenty-five-year storm based on rainfall data from the National Weather Service records in Portland. Flows shall be computed by the rational method or by another generally accepted method as approved by the city engineer.

12.7.4. Upstream drainage shall be accommodated by an adequately sized drainage system through the proposed development for existing and future potential development in the upstream drainage area, or areas tributary to the proposed development, as determined by the board.

12.7.5. Existing downstream drainage facilities shall be studied to determine the effect of the proposed development's drainage. The developer shall demonstrate to the satisfaction of the board that the storm drainage from the proposed development will not, in any way, overload existing storm drainage systems downstream from the proposed development. The developer must arrange with the Waterville Sewerage District for any improvements to existing drainage systems that are required to handle the increased drainage caused by the development.

12.7.6. Where open ditches, (other than roadway ditches), channels, streams, or natural drainage courses are used to collect, discharge, and/or transmit water through the development, an adequately sized perpetual drainage easement shall be provided. This easement shall be centered as closely as possible to the middle of the watercourse and shall be no less than thirty (30) feet in width.

12.7.7. Where subsurface soils are poorly drained, an underdrain system may be required by the board. Underdrains shall be installed and discharged in a positive manner.

## **12.8. Soil erosion control.**

12.8.1. Topsoil shall be considered part of the development. Except for surplus topsoil for roads, parking areas and building excavations, it is not to be removed from the site.

12.8.2. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by the following erosion control management practices:

12.8.2.A. The stripping of vegetation, removal of soil, regrading or other development of the site shall be accomplished by limiting the duration of the exposure and area of the site to be disturbed. Dust control methods shall be employed during dry conditions.

12.8.2.B. Temporary vegetation, mulching, and/or siltation fabrics shall be used to protect critical areas during the development. Sedimentation of runoff waters shall be trapped by debris basins, silt traps, sediment basins, or other methods determined acceptable by the city.

12.8.2.C. Permanent vegetation and/or other erosion control measures should be installed prior to the completion of the construction, but no later than six (6) months after completion of the construction.

12.8.2.D. The top or bottom of a cut or fill shall not be closer than ten (10) feet to a property line unless otherwise mutually agreed to by the affected landowner and the city, but in no instance shall this cut or fill exceed three to one (3:1) slope.

12.8.3. To prevent soil erosion of shoreline areas, the provisions of section 4.3.39. of the zoning ordinance shall control.

## **ARTICLE 13. VARIANCES AND WAIVERS**

### **13.1.**

Where the board makes written findings of fact that undue hardship would result from strict compliance with these submission requirements or standards, or that there are special circumstances of a particular site or lot proposed to be subdivided, it may waive or modify portions of the submission requirements or the standards so that substantial justice may be done and the public interest secured; provided that such waivers or variances will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan, the zoning ordinance, the provisions of this ordinance, or the criteria contained in state law, such as but not so limited to, 30-A MRSA section 4404, as amended from time to time, and provided that this waiver does not unduly restrict the review process.

### **13.2.**

Where the planning board makes written findings of fact that, due to special circumstances of a particular plan, the provision of certain required improvements is not requisite in the interest of public health, safety and general welfare, or is inappropriate because of inadequacy or lack of connection facilities, adjacent or in proximity to the proposed development, it may waive those requirements, subject to appropriate conditions, and provided that all criteria contained in state law at 30-A MRSA section 4404, as amended from time to time, are met.

### **13.3.**

If the initial approval of a development, or subsequent amendment of an approved development involves the grant of a variance from the standards set forth in Articles 11 and 12, that fact shall be expressly noted on the face of any plan that is to be registered in the Kennebec Registry of Deeds. If, in the case of an amendment to an approved plan that constitutes a variance, and the amended plan is not to be recorded, then the planning board must issue a certificate in accordance with the provisions set forth in 30-A MRSA section 4406(1)(B)(2), as amended from time to time. Failure by the applicant or his heirs, successors or assigns to record the plan or certificate in the registry within ninety (90) days of the variance approval, renders the variance invalid.

## **ARTICLE 14. APPEALS**

### **14.1.**

An appeal from a decision of the planning board may be taken to the Superior Court, State of Maine, pursuant to Rule 80(B), Maine Rules of Civil Procedure, provided the decision is a final decision and not a report such as, but not so limited to, a report under section 7.1.4. of the zoning ordinance.

## **ARTICLE 15. VALIDITY AND SEPARABILITY AND CONFLICT WITH OTHER ORDINANCES**

### **15.1.**

Should any section or provision of this ordinance be declared by any court to be invalid, that decision shall not invalidate any other section or provision of the ordinance.

### **15.2.**

Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirements shall apply.

### **15.3.**

The subdivision standards of the planning board of the City of Waterville, Maine, Ordinance 2-1976, enacted July 20, 1976, and all amendments thereto, are hereby repealed.

### **15.4.**

This ordinance shall take effect April 1, 1990.

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**APPROVED**

Waterville City Council  
Effective: April 1, 1990