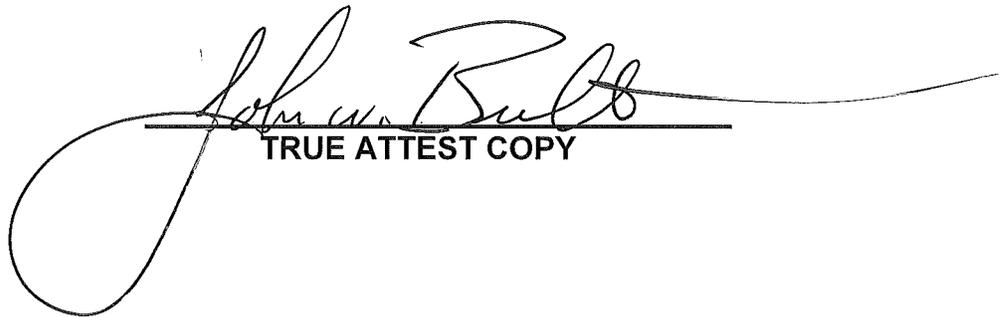


# **TOWN OF HOLDEN**

# **SUBDIVISION ORDINANCE**

**Adopted April 14, 2008**  
**Amended September 8, 2008**  
**Amended December 19, 2011**



**TRUE ATTEST COPY**

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**SECTION I: GENERAL PROVISIONS**

**SECTION USER'S GUIDE:** This section contains general information related to the title of the Ordinance, the statutory authority under which it was prepared and adopted, and the procedure for its amendment.

**A. TITLE**

This Ordinance shall be known and be cited as the "Town of Holden Subdivision Ordinance."

**B. AUTHORITY**

This Ordinance is enacted under the authority granted to the Town by the statutes of the State of Maine and in accordance with the provisions of Title 30-A, MRSA, Section 4403.

**C. APPLICABILITY**

The provisions of this Ordinance shall apply to subdivisions as defined by this Ordinance and by Title 30-A, MRSA, Section 4401 and 4402 as amended, within the boundaries of the Town of Holden.

**D. CONFLICT WITH OTHER ORDINANCES**

Whenever the requirements of this Ordinance are in conflict with the requirements of any other lawfully adopted rule, regulation, ordinance, deed restriction or covenant, the more restrictive requirements shall govern.

**E. SUPERSEDURE**

All Ordinances and parts of Ordinances in conflict with this Ordinance are hereby repealed, but only to the extent of such conflict. The Subdivision Ordinance in effect at the time that this Subdivision Ordinance is enacted is hereby repealed. Provided, however, that all lawfully adopted Ordinances or parts thereof shall remain in full force and effect with respect to any violation thereof in existence at the time of adoption of this Ordinance, and provided further that any such violation shall be deemed a violation of this Ordinance and subject to its terms and provisions.

**F. SEPARABILITY**

In the event that any section, subsection or any provision of this Ordinance shall be declared by any court of competent jurisdiction to be invalid for any reason, such decision shall not be deemed to affect the validity of any other section, subsection or other portion of this Ordinance; to this end, the provisions of this Ordinance are hereby declared to be severable.

**G. AMENDMENTS**

The procedure to be followed in initiating and securing amendments to this Ordinance is as follows:

**1. INITIATION**

A proposal to amend this Ordinance may be initiated by:

- a. The Planning Board, by majority vote;
- b. The Town Council, in accordance with the provisions of Section 2.13.6 of the Charter for Holden, Maine adopted November 6, 2001, as amended; or
- c. Any 5 qualified voters may begin initiative proceedings by a request in writing to the Town Clerk. The Clerk shall provide the appropriate petition blanks within 5 days of when they are

**SECTION I: GENERAL PROVISIONS** (continued)

requested. The complete text of the proposed amendment shall be included in the request. All papers of the petition shall be uniform in size and style and shall be assembled as one instrument for filing. They shall contain or have attached thereto throughout their circulation the full text of the proposed amendment. These 5 qualified voters shall be referred to as the Requesting Committee during the initiative procedure. The Requesting Committee shall have 30 days from the acceptance date of the request by the Town Clerk to cause the petitions to be signed by 5% of the number of votes cast in the town at the last Gubernatorial Election but not fewer than 70 voters. Any voter of Holden may circulate the petition. The petition shall be signed only once by qualified voters of the town and each voter's signature shall be followed by his/her address. An affidavit-of-the-circulator, similar to that which is required in MSRA title 30-A, section 2102(3) (b)(3), as amended, will be required.

Petitioners may present their petitions to the Clerk at any time during the circulation period. Within 7 days after the petition circulation period ends, the Clerk shall certify to the Town Council and notify the Requesting Committee that the petition has been signed by 5% of the total of qualified voters who cast votes in the last Gubernatorial Election but not fewer than 70 voters.

Should fewer qualified voters than required by this ordinance sign the petition in the specific time, the petition shall have no further force or effect, and all proceedings thereon shall be terminated. A request to initiate the same amendment may not be accepted by the Clerk until 120 days after the expiration of the previous filing period. The Town Council shall process the request for Subdivision Ordinance amendment in accordance with the provisions of ARTICLE 2, Sections 2.07 and 2.13.6 of the Charter for Holden, Maine, dated November 6, 2001, as amended. Any such proposed amendment shall be examined by the Town Attorney before being circulated for signatures. The Town Attorney is authorized to edit the form of such proposed amendment for the purpose of avoiding repetitions, illegalities, and unconstitutional provisions, and to assure accuracy in its text and references, and clarity and precision in its phraseology, but he/she shall not materially change its meaning and effect. If the Town Attorney cannot edit or correct the proposed amendment, he/she shall so advise the Requesting Committee who may revise the proposed amendment. If not revised, the Town Attorney shall advise the voters at the public hearing of the shortcomings of the proposed amendment.

- d. When an amendment is proposed by other than the municipal officers or Planning Board, a fee of one hundred dollars (\$100) shall accompany the proposal to cover the cost of review, hearings, and advertisements. This fee is non-refundable.

**2. PROCESS OF ADOPTION**

The process to be followed in adopting an amendment to this Ordinance is as follows:

- a. Proposed amendments must first be submitted to the Planning Board for their consideration.
- b. The Planning Board shall, within thirty (30) days of receiving a proposed amendment, set a date to hold a public hearing on the proposed amendment.
- c. Notice of the public hearing shall be given pursuant to the provisions of Section III.G of this Ordinance.
- d. The Planning Board shall make its official report at the next Town Council Meeting following the public hearing.
- e. Enactment of a proposed amendment shall follow the procedure outlined in Article II, Section 2.13.6 of the "Charter for Holden, Maine, dated November 6, 2001, as amended.
- f. Amendments adopted by the Town Council shall follow the procedure outlined in Article II, Section 2.07 of the "Charter for Holden, Maine, dated November 6, 2001 as amended.

**SECTION I: GENERAL PROVISIONS (continued)**

**H. EFFECTIVE DATE**

The provisions of this Ordinance shall become effective the day of their enactment.

## SECTION II: PURPOSES

**SECTION USER'S GUIDE:** This section explains the purposes of this Ordinance.

### **A. PROTECT GENERAL WELFARE**

To assure the comfort, convenience, safety, health and welfare of the citizens of Holden;

### **B. PROTECT ENVIRONMENT**

To protect the natural resources from unacceptable adverse impacts and to integrate new development harmoniously into the Town's natural environment;

### **C. PROMOTE COMMUNITY DEVELOPMENT**

To promote the development of an economically sound and stable community;

### **D. BALANCE PROPERTY RIGHTS**

To protect property rights and values by balancing the rights of landowners to use their land for the purposes regulated by this Ordinance with the corresponding rights of abutting and neighboring landowners to enjoy their property without undue disturbance;

### **E. REDUCE FISCAL IMPACT**

To provide the means for evaluating subdivision proposals for their fiscal impact on the municipality's ability to provide and improve necessary public facilities and services;

### **F. ESTABLISH PROCEDURES AND STANDARDS**

To establish procedures whereby the Town Officials may review the developments regulated by this Ordinance by providing fair and reasonable standards for evaluating such developments; and to provide a public hearing process through which Town residents may raise questions and receive answers regarding how such developments may affect them.

### **SECTION III: ADMINISTRATION**

**SECTION USER'S GUIDE:** This section contains provisions for the administration of this Ordinance including specific provisions for certificates of compliance, conditions of approval, and public hearings.

#### **A. ADMINISTERING BODY**

The Planning Board of the Town of Holden, hereinafter called the Board, shall administer this Ordinance.

#### **B. APPLICATION REQUIRED**

Applications for approval shall be submitted in writing to the Board, on forms provided by it. The Board may require the submission of whatever additional information is necessary to determine compliance with the provisions of this Ordinance.

#### **C. PERMITS TO BE APPLIED FOR BEFORE APPROVAL**

Applications for approval under this Ordinance will not be considered complete for processing until all other required local, state, and federal permits have been applied for and evidence that they have been applied for or acquired has been provided to the Board.

#### **D. COMMENCEMENT AND COMPLETION OF WORK**

Construction and alteration activities on projects for which approval has been granted under this Ordinance shall commence within six (6) months of the date of approval and shall be completed within eighteen (18) months.

Activities which are not commenced or substantially completed within the time limits provided above shall be subject to new application and the prior approval issued under this Ordinance shall be considered void, unless an extension has been granted by the Board.

Activities may be extended for up to twelve (12) months at a time by the Planning Board upon a showing of good cause where a written request setting forth the reasons for the extension is submitted not later than thirty (30) days prior to the pending commencement or completion date.

#### **E. CERTIFICATE OF CONSTRUCTION REQUIRED**

No land in a subdivision requiring approval under this Ordinance shall be conveyed, rented, leased, or occupied without a certificate of construction issued by the Code Enforcement Officer indicating that all of the required public improvements have been constructed as required.

#### **F. CONDITIONS OF APPROVAL**

The Board may in approving applications attach such reasonable and appropriate terms and conditions, in addition to those required elsewhere in this Ordinance, that it finds necessary to further the purposes of this Ordinance. Such terms and conditions may include, but are not limited to, specifications for:

1. Specific sewage or other waste disposal facilities;
2. Specific water supply facilities;
3. Landscaping and planting screens;
4. Sureties and bonds;
5. Restrictive covenants;

**SECTION III: ADMINISTRATION (continued)**

6. Location of piers, docks, parking areas and signs; and
7. Any other term or condition of approval necessary to fulfill the purposes of this Ordinance.

Violation of any of these terms or conditions shall be considered a violation of this Ordinance.

**G. PUBLIC HEARINGS**

In scheduling public hearings under this Ordinance, the Board shall notify the Applicant at least twenty (20) days in advance of the date, time and place of the hearing. The Board shall publish notice of the hearing at least seven (7) days in advance in a newspaper of general circulation in the area at least two (2) times and shall post such notice in at least two (2) conspicuous public places. The first notice shall appear at least seven (7) days in advance of the hearing.

At any hearing, a party may be represented by an agent or attorney. Hearings shall not be continued to other times except for good cause. The applicant's case shall be presented first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chairman of the Board.

Whenever a public hearing is held pursuant to this Ordinance, the matters in that hearing may be carried over until the next regularly or specially scheduled meeting of the Planning Board for further public hearing without affecting any decisional deadline applicable to the Planning Board.

Ten (10) days after the public hearing, the administrative record shall close. Within thirty (30) days of the public hearing, the Board shall reach a decision on the proposed subdivision plan and shall inform the applicant and the Town Manager in writing within ten (10) days of its decision stating its reasons. The Board shall prepare detailed, written findings of fact, as well as its conclusions and the reasons or basis thereof. These findings shall not be based on feelings or unsubstantiated allegations, but upon all reasonable and admissible evidence that is submitted prior to the closing of the record.

**SECTION IV: CRITERIA OF APPROVAL**

**SECTION USER'S GUIDE:** This section contains the criteria by which the Board will judge all applications submitted pursuant to this Ordinance.

In approving applications submitted pursuant to this Ordinance, the Board shall find that:

**A. POLLUTION**

The proposed subdivision will not result in undue water or air pollution. In making this determination, the Board shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains;
2. The nature of soils and subsoils and their ability to adequately support waste disposal;
3. The slope of the land and its effect on effluents;
4. The availability of streams for disposal of effluents; and
5. The applicable state and local health and water resource rules and regulations.

**B. SUFFICIENT WATER SUPPLY**

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

**C. MUNICIPAL WATER SUPPLY**

The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be utilized;

**D. EROSION**

The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;

**E. TRAFFIC**

The proposed subdivision 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 and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;

**F. SEWAGE DISPOSAL**

The proposed subdivision will provide for adequate sewage waste disposal; and will not cause an unreasonable burden on municipal services if they are utilized;

**G. MUNICIPAL SOLID WASTE DISPOSAL**

The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

**SECTION IV: CRITERIA OF APPROVAL** (continued)

**H. AESTHETIC, CULTURAL AND NATURAL VALUES**

The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;

**I. CONFORMITY WITH LOCAL ORDINANCES AND PLANS**

The proposed subdivision conforms with this subdivision ordinance and any duly adopted comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;

**J. FINANCIAL AND TECHNICAL CAPACITY**

The subdivider has adequate financial and technical capacity to meet the standards of this section;

**K. SURFACE WATERS**

Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, Subchapter I, Article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water;

**L. GROUND WATER**

The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

**M. FLOOD AREAS**

Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, whether the subdivision is in a flood-prone area, and if the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;

**N. FRESHWATER WETLANDS**

All potential freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

**O. RIVER, STREAM OR BROOK**

Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, Section 480-B, Subsection 9.

**P. STORM WATER**

The proposed subdivision will provide for adequate storm water management.

## **SECTION IV: CRITERIA OF APPROVAL (continued)**

### **Q. SPAGHETTI-LOTS PROHIBITED**

If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.

### **R. LAKE PHOSPHORUS CONCENTRATION**

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

### **S. IMPACT ON ADJOINING MUNICIPALITY**

For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

### **T. LANDS SUBJECT TO LIQUIDATION HARVESTING**

Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by Maine the Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

### **U. STATE SUBDIVISION LAW CRITERIA**

In addition to the criteria above, the Board shall find that the proposed subdivision meets any additional criteria added by the Legislature to Title 30-A, MRSA, Section 4404, from time to time.

### **V. WRITTEN FINDINGS OF FACT REQUIRED**

In approving subdivisions under this Ordinance, the Board shall consider the criteria above; and before granting approval, shall make written findings of fact that the provisions of this Ordinance have been met.

### **W. BURDEN OF PROOF**

In all instances the burden of proof of compliance with the above criteria shall be upon the person proposing the subdivision.

## **SECTION IV: CRITERIA OF APPROVAL (continued)**

### **X. FARMLAND**

All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;

## **SECTION V: VIOLATIONS AND ENFORCEMENT**

**SECTION USER'S GUIDE:** This section contains specific provisions describing those actions which shall be considered violations of this Ordinance and procedures for enforcement. It also provides that contractors shall be held liable for their actions which are in violation of this Ordinance. The violations enumerated in this section shall not be exclusive; any other section that identifies a violation shall be valid.

### **A. RECORDING OF SUBDIVISION PLAN WITHOUT PRIOR APPROVAL PROHIBITED**

No plan of a division of land within the municipality which would constitute a subdivision under this Ordinance shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.

### **B. CONVEYANCE WITHOUT RECORDING PROHIBITED**

No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

### **C. CONVEYANCE OF LOTS NOT SHOWN ON FINAL PLAN PROHIBITED**

No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land in an approved subdivision which is not shown on the Final Plan as a separate lot.

### **D. CONVEYANCE WITHOUT APPROVAL PROHIBITED**

No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision requiring approval under this Ordinance, which has not been approved as required by this Ordinance.

### **E. UTILITY HOOKUPS PRIOR TO APPROVAL PROHIBITED**

A public utility, water district, sanitary district, or any utility company of any kind may not install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required by the Town of Holden has been issued by the appropriate municipal officers or other written arrangements have been made between the municipal officers and the utility.

### **F. DEVELOPMENT PRIOR TO APPROVAL PROHIBITED**

Development of a subdivision or project requiring approval under this Ordinance, without Board approval shall be a violation. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in this Ordinance.

### **G. ROAD COMPLETION PRIOR TO CONVEYANCE REQUIRED**

No lot in a subdivision may be sold, leased, or otherwise conveyed before the Road upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the road upon which the unit is accessed is completed in accordance with this Ordinance.

**SECTION V: VIOLATIONS AND ENFORCEMENT (continued)**

**H. FAILURE TO COMPLY WITH CONDITIONS OF APPROVAL**

Failure to comply with any conditions of approval shall be construed to be a violation of this Ordinance and shall be grounds for revoking the approved development plan, initiating legal proceedings to enjoin construction, development or any specific activity violating the conditions of permit approval or applying the legal penalties provided herein.

**I. FAILURE TO PAY**

Failure to pay application fees, filing fees, and technical review accounts as required by this Ordinance shall be considered a violation of this Ordinance, which will stop the review process and void approvals.

**J. OWNER RESPONSIBLE FOR OFF-SITE SEDIMENTATION**

Whenever sedimentation is caused by stripping vegetation, re-grading or other development, it shall be the responsibility of the owner to remove sediment from all adjoining surfaces, drainage systems and watercourses and to repair any drainage, at his expense, as quickly as possible. Failure to do so within two (2) weeks after official notification by registered mail (return receipt requested) by the Code Enforcement Officer shall be considered a violation of this Ordinance.

**K. NUISANCES**

Any violation of this Ordinance shall be deemed a nuisance.

**L. CODE ENFORCEMENT OFFICER**

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, the person or persons responsible for such violation, shall be notified in writing, including the nature of the violation and ordering the action necessary to correct it, including the discontinuance of illegal use of land, buildings, or structures, and abatement of nuisance conditions. A copy of such notice shall be maintained as a permanent record.

**M. LEGAL ACTIONS**

When there is a violation of this Ordinance, the Council, upon notice from the Code Enforcement Officer, are hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town. The Code Enforcement Officer, upon certification, is hereby authorized to represent the Town in District Court pursuant to Title 30-A, MRSA, Sec. 4451 et seq.. In any case, the Town Attorney may prosecute such actions.

**N. FINES & FEES**

Any violation of this Ordinance is punishable pursuant to Title 30-A, MRSA, section 4452. The provisions of that statute governing fines and fees is expressly applicable to violations under this ordinance. Each day such violation is continued is a separate offense. All such fines shall accrue to the Town.

**O. CONTRACTOR LIABILITY**

Any contractor involved in any activity regulated by the provisions of this Ordinance may be held liable for violating this Ordinance if the necessary permits and/or approvals for such activity have not been obtained.

## **SECTION VI: APPEAL TO SUPERIOR COURT**

**SECTION USER'S GUIDE:** This section contains specific provisions regarding the appeal of Planning Board decisions to Superior Court.

An appeal may be taken within thirty (30) days after any decision is rendered by the Planning Board, by any party to Superior Court in accordance with State Law.

**SECTION VII: ADMINISTRATIVE PROCEDURES**

**A. AGENDA REQUIRED**

In order to provide an orderly process for reviewing applications, an agenda shall be prepared in advance of each regularly scheduled Planning Board meeting.

**B. APPROVAL REQUIRED**

After the effective date of this Ordinance, no person shall engage in any activity requiring a permit under this Ordinance without first obtaining the approval of the Board.

**C. AGENDA MAY BE LIMITED**

The Planning Board, in order to conduct a thorough review of applications submitted to it, may limit such review to one subdivision application per regularly scheduled meeting.

## SECTION VIII: PRE-APPLICATION PROCEDURES/SKETCH PLAN REVIEW

**SECTION USER'S GUIDE:** This section contains provisions related to the procedures to be followed and submissions required during the Pre-Application/Sketch Plan Review stage of the subdivision review process provided by this Ordinance.

### A. GENERAL

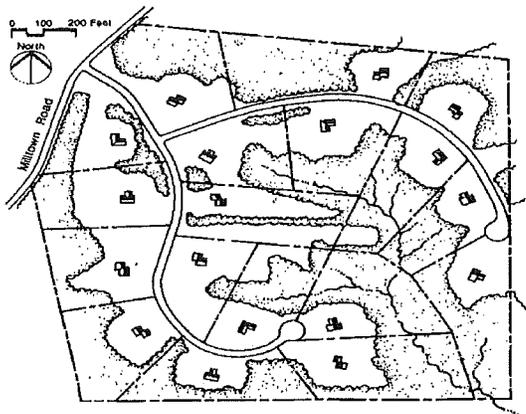
All applicants shall meet with the Planning Board and otherwise comply with the pre-application procedures set forth below prior to the formal submission of a subdivision plan. All subdivision applications submitted to the Holden Planning Board shall be conservation subdivisions. See explanation in paragraph C, below, Section XVI.E., Retention of Open Spaces and Natural or Historic Features, and Section XX, Requirements for Conservation Subdivisions.

### B. PURPOSE OF PRE-APPLICATION PROCESS

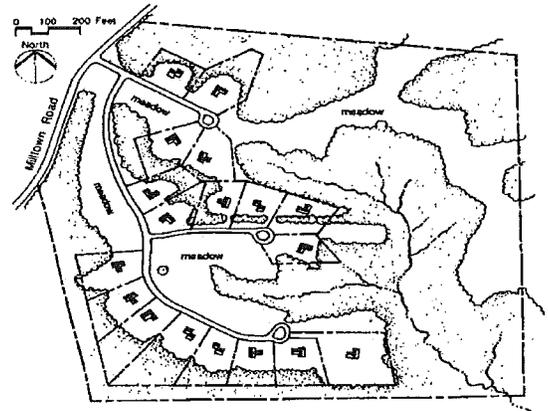
The purpose of the pre-application process is for the applicant to present general information regarding the proposed subdivision to the Code Enforcement Officer/Planner (CEO/Planner) and Planning Board and receive the CEO/Planner's and Planning Board's comments prior to the expenditure of substantial sums of money on surveying, engineering, and the preparation of a subdivision application by the applicant.

### C. EXPLANATION OF CONSERVATION SUBDIVISION

A conservation subdivision is a technique that concentrates development in one or more compact areas on the site in exchange for conserving open space and natural areas elsewhere on the site. The minimum lot sizes, setbacks and frontage requirements for the zone are relaxed in order to create open space on the site. The municipal ordinance typically permits the same amount of development that is already permitted. The key difference is that this technique requires new construction to be located on only a portion – typically half – of the parcel. This new construction should incorporate buffers, landscaping and design features to preserve the rural character of the zone in which it is located. The remaining open space is permanently protected under a conservation easement held by a land trust, the municipality itself, or under such terms as the parties may agree.



Traditional subdivision – development of entire parcel with lots



Conservation subdivision - development of portion of site with same # of lots

*Reprinted with permission from "Growing Greener, Putting Conservation into Local Codes," by Randall Arendt.*

## **SECTION VIII: PRE-APPLICATION PROCEDURES/SKETCH PLAN REVIEW (continued)**

### **D. PRE-APPLICATION PROCEDURE**

The pre-application phase consists of the following three activities:

1. The submission to and review by the Planning Board of a Site Inventory and Analysis (see paragraph E, below)
2. Planning Board site inspection (see paragraph F, below)
3. A pre-application conference (see paragraph G, below)

### **E. SUBMISSION OF SITE INVENTORY AND ANALYSIS**

All applicants for subdivision approval shall submit a Site Inventory and Analysis to the Code Enforcement Officer/Planner. This requirement shall apply to new subdivisions, amendments to existing subdivision and re-subdivision of land within an existing subdivision. Submission of the site inventory and analysis shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302.

#### **1. PURPOSE**

The Site Inventory and Analysis is intended to provide the applicant, the Planning Board, and the CEO/Planner with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environments, and to provide a complete and factual reference for the Planning Board in making its site inspection. It is anticipated that this analysis will result in a subdivision plan that reflects the conditions of the site; those areas most suitable for conservation and open space will be preserved to the maximum extent possible, and those areas most suitable for the proposed use will be utilized. Therefore, the submission requirements provide that the applicant submit basic information about the site. The Planning Board's focus during this phase will be primarily on the location of open space.

#### **2. SUBMISSION REQUIREMENTS**

The Site Inventory and Analysis shall include the following information:

- a. The name of the property owner and the name of the applicant, if different.
- b. Evidence that the applicant has right, title or interest in the property.
- c. An aerial photograph enlarged to a scale not less detailed than 1 inch = 400 feet, to show the relationship of the proposed area to be subdivided to adjacent properties and to the total areas owned in whole or in part by the applicant. The aerial photograph shall include:
  - 1) Property boundaries in the area;
  - 2) Locations and names of existing streets;
  - 3) Boundaries and designations of zoning districts;
  - 4) Wetlands, regardless of size, prepared by a State Certified Soil Scientist or Geologist registered in the State of Maine, based on an on-site investigation, streams or ponds located in whole or in part on the parcel proposed to be subdivided.
  - 5) The boundaries of the 100-year floodplain;
  - 6) Public land, and
  - 7) Land protected under conservation easements.
- d. One or more maps of the site at the same scale as the aerial photograph showing:
  - 1) Topographic, physical and cultural features including fields, pastures, meadows, wooded areas, trees with a diameter of 15 inches or more, steep slopes over 20%, rock outcrops, soil types, ponds, ditches, drains, streams

**SECTION VIII: PRE-APPLICATION PROCEDURES/SKETCH PLAN REVIEW (continued)**

2) Cultural features such as all structures, foundations, walls, wells, trails and abandoned roads

e. Names and addresses of abutters.

**3. REVIEW OF SITE INVENTORY AND ANALYSIS BY CEO/PLANNER**

Upon receipt of a Site Inventory and Analysis, the Code Enforcement Officer/Planner (CEO/Planner) shall give the applicant a dated receipt. Within ten (10) days of the receipt of a site inventory and analysis submission, the CEO/Planner shall review the material and determine whether the submission is complete. If the submission is determined to be complete, the applicant shall provide ten (10) copies of the Site Inventory and Analysis to the Code Enforcement Officer. Following receipt of the 10 copies, the Code Enforcement Officer/Planner shall place the item on the agenda for review by the Planning Board at the next available meeting.

If the submission is determined to be incomplete, the CEO/Planner shall notify the applicant in writing of this finding and shall specify the additional material required to make the submission complete. The CEO/Planner shall advise the applicant that, unless the applicant applies for a waiver or reduction of the submission requirements, the application will not be considered by the Board until the additional information is submitted. These steps shall be repeated until the application is found to be complete. When the submission is determined to be complete, or when the applicant has submitted a written, signed request for a waiver or reduction of submission requirements, the Code Enforcement Officer/Planner shall place the item on the agenda for review by the Planning Board at the next available meeting. The Planning Board shall have the final say on the completeness of the Site Inventory and Analysis and/or whether or not to grant a waiver or reduction of requirements.

**4. WAIVER OR REDUCTION OF SITE INVENTORY AND ANALYSIS REQUIREMENTS**

Upon written appeal by the applicant, the Planning Board may waive the submission requirements set forth in E.2., above, or reduce the amount of information required for the revision of previously approved plans, upon a finding that the analysis provided by this process is not necessary due to the scale of the project and the absence of any significant natural resources or development constraints on the site. Requests for waivers from a submission requirement must be submitted in writing by the applicant. Unless waived by the Board, this review must be completed prior to the preparation and submission of a subdivision application and supporting documentation.

**5. REVIEW OF SITE INVENTORY AND ANALYSIS BY PLANNING BOARD**

Unless the requirements for a Site Inventory and Analysis are waived or reduced, the Planning Board shall review the Site Inventory and Analysis with the applicant to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that will help determine how it should be used, areas that are appropriate for conservation areas, and areas that are appropriate for development.

**F. SITE INSPECTION**

The Planning Board may conduct an on-site inspection of the site, and may invite members of the Conservation Commission and/or abutters to be present during the inspection. Applicants, their site designers, and the landowner(s) are encouraged to accompany the Planning Board. The purpose of the visit is to familiarize local officials with the property's existing conditions and special features, to identify potential site design issues, and to provide an informal opportunity to discuss the general layout of land to be preserved as open space (if applicable). Comments made by the Planning Board, the CEO/Planner, and other local officials shall be interpreted as being only suggestions. It shall be understood by all parties that no formal recommendations can be offered, and no official decisions

## **SECTION VIII: PRE-APPLICATION PROCEDURES/SKETCH PLAN REVIEW (continued)**

can be made, at the site inspection. The site inspection shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302.

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

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

### **G. PRE-APPLICATION CONFERENCE**

Following the site inspection and prior to submission of a sketch plan, the applicant shall meet with the Planning Board to:

- Discuss the findings of the site inspection;
- Develop a mutual understanding of the general approach for subdividing and/or developing the tract. At its discretion, this conference can be combined with the site inspection; and
- Consider any input received from the CEO/Planner, the Conservation Commission and abutters.

The outcome of the review process shall be:

- The identification by the Board of the issues and constraints that must be addressed in the formal subdivision application;
- The classification by the Board of the project as a Major or Minor Subdivision (which classification may later be revised if the scope of the project changes); and
- Action on any requests for waivers at this time, except that the Board may postpone action on a request for a waiver if the Board has determined that additional information is needed.

### **H. PROCEDURE FOR SKETCH PLAN REVIEW**

The procedures for Sketch Plan Review are as follows:

#### **STEP 1: ADVANCE REQUEST TO BE PLACED ON AGENDA REQUIRED**

The applicant shall request, through the Code Enforcement Officer, to be placed on the Planning Board's agenda, for a pre-application conference, at least twenty-eight (28) days prior to the regularly scheduled meeting at which the applicant wishes to be heard.

#### **STEP 2: CEO REVIEW OF SUBMISSION PACKET FOR COMPLETENESS**

The Code Enforcement Officer shall not place an applicant on the agenda until determining that the applicant has presented the submission packet as specified in subsection I of this section.

#### **STEP 3: PLANNING BOARD REVIEWS SKETCH PLAN AND EXHIBITS**

At the sketch plan review meeting, the Planning Board shall review the Sketch Plan and accompanying exhibits with the applicant, answer the applicant's questions, and make specific suggestions to be incorporated by the applicant in subsequent submissions.

#### **STEP 4: CONTOUR INTERVALS ESTABLISHED**

At the pre-application meeting, the Planning Board shall determine the contour intervals for subsequent submissions and shall notify the applicant in writing that either 1, 2, or 5-foot contour intervals are required.

## **SECTION VIII: PRE-APPLICATION PROCEDURES/SKETCH PLAN REVIEW (continued)**

### **I. SUBMISSION PACKET**

The submission packet required for Sketch Plan Review shall include the following:

#### **1. SKETCH PLAN**

A Sketch Plan, showing the information specified in d. below, shall be submitted to the Planning Board.

a. **NUMBER OF COPIES:**

Ten (10) paper copies of the Sketch Plan shall be submitted.

b. **SHEET SIZE:**

The Sketch Plan shall be at least 11 x 17 inches, but no larger than 24 x 36 inches in size.

c. **PLAN SCALE:**

The Sketch Plan shall be drawn to scale.

d. **INFORMATION TO BE SHOWN ON THE PLAN:**

The following information shall be shown on all Sketch Plans:

- 1) The outline of the tract or parcel to be subdivided with the acreage of parcel shown or, if acreage not known, the estimated perimeter dimensions;
- 2) True north arrow;
- 3) The scale to which the plan is drawn;
- 4) The proposed layout of lots, roads, driveways, and building locations;
- 5) Location of public utilities proposed to be utilized;
- 6) The tax map and lot numbers from Tax Assessor's Office describing the parcel proposed to be subdivided; and
- 7) Information required in E. Submission of Inventory and Analysis, 2.c. 2) through 7) and d.1) and 2).

#### **2. EXHIBITS TO ACCOMPANY SKETCH PLAN**

Exhibits 1, 2, 3, and 4 as specified in Section XII.C of this Ordinance shall accompany the Sketch Plan and be submitted with the Sketch Plan to the Code Enforcement Officer when requesting a pre-application conference.

### **J. RIGHTS NOT VESTED**

The submittal or review of the pre-application 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.

**SECTION IX: SUBDIVISION REVIEW PROCESS: MINOR SUBDIVISIONS**

**SECTION USER'S GUIDE:** This section contains provisions related to the process to be followed during the review of Minor Subdivisions.

**A. MINOR SUBDIVISION MAY HAVE TO COMPLY WITH MAJOR SUBDIVISION REQUIREMENTS**

The Planning Board may require, where it deems it necessary for the protection of public health, safety and general welfare, that a Minor Subdivision comply with all or any of the procedural and submission requirements of a Major Subdivision.

**B. SUBMISSION PACKET**

The submission packet required for Minor Subdivisions shall include the following:

**1. APPLICATION AND EXHIBITS**

An application and attachments for Planning Board review of Minor Subdivisions shall be submitted as specified in Section XII of this Ordinance.

**2. FINAL SUBDIVISION PLAN**

A Final Subdivision Plan for Planning Board review of Minor Subdivisions shall be submitted as specified in Section XIII of this Ordinance.

**3. ADMINISTRATIVE FEES AND ESCROW ACCOUNT**

An administrative fee and escrow account for Planning Board review of Minor Subdivisions shall be submitted as specified in Section XIV of this Ordinance.

**C. PROCEDURE**

The procedures for reviewing Minor Subdivision Plans are as follows:

**STEP 1: REQUEST FOR FINAL PLAN REVIEW**

Within six (6) months after classification of the proposed subdivision as a Minor Subdivision, the Applicant shall submit a complete Final Plan to the Code Enforcement Officer and request, through the Code Enforcement Officer, to be placed on the Planning Board's agenda.

Such a request shall be made at least twenty-eight (28) days prior to the regularly scheduled meeting at which the applicant wishes to be heard.

Failure to do so within the six (6) months of classification may require a new pre-application conference.

**STEP 2: CEO REVIEWS SUBMISSION PACKET FOR COMPLETENESS**

The Code Enforcement Officer shall not place an applicant on the agenda until determining that the applicant has presented the submission packet required for Minor Subdivisions by this Ordinance.

If the Code Enforcement Officer determines that the submission packet is not complete, the submissions shall be returned to the applicant with a Notice of Incomplete Submission, specifying the required information found to be missing. If the Code Enforcement Officer determines that the submission packet is complete, the

**SECTION IX: SUBDIVISION REVIEW PROCESS: MINOR SUBDIVISIONS (continued)**

applicant shall be issued a Dated Receipt Of Application and place the application on the agenda of the next regularly scheduled Planning Board meeting.

**STEP 3: NOTICE TO ABUTTERS AND ADJACENT MUNICIPALITY**

Upon the issuance of a Dated Receipt Of Application, the Code Enforcement Officer shall notify by mail all abutting property owners of the proposed subdivision, and the Clerk and Planning Board of municipalities that abut or include any portion of the proposed subdivision, if the proposed subdivision in fact abuts or is in part within another municipality.

Such notice shall specify that a Final Plan and application for a proposed Minor Subdivision has been received, the location of the proposed Minor Subdivision, and give a general description of the proposal.

**STEP 4: PLANNING BOARD REVIEWS FINAL PLAN AND APPLICATION**

Within thirty (30) days from the receipt of an application, the Planning Board shall review the Final Plan and submissions for completeness.

If the Planning Board determines that the application is not complete, it shall issue the applicant a Notice Of Incomplete Application specifying the additional information expected prior to further action on the application.

The applicant shall have thirty (30) days thereafter to submit a complete Final Plan. A failure to submit a complete Final Plan within that time shall require that the Preliminary Plan be re-reviewed as provided in Section VIII, pre-application conference/sketch plan review.

If the Planning Board determines that the application is complete, it shall issue the applicant a Notice of Complete Application.

A Notice Of Complete Application does not constitute the Planning Board's approval of the information submitted. The Planning Board reserves the right to request additional information throughout the review process up to and until Final Plan Approval.

Full evaluation of the Final Plan shall begin only after the Planning Board has determined that a complete application has been filed. This evaluation may commence at the same meeting at which the determination of completeness has been made.

**STEP 5: FINAL PLAN PUBLIC HEARING DISCRETIONARY**

Within thirty (30) days of the Planning Board's determination that a complete application has been submitted or within such other time limit as may be mutually agreed to by the Planning Board and the Applicant, the Planning Board may decide that the proposed Minor Subdivision lacks such complexity that a public hearing is not warranted and not hold a public hearing on the Final Plan of the proposed Minor Subdivision.

Notice of the public hearing shall be given pursuant to the provisions of Section III.G of this Ordinance.

**STEP 6: PLANNING BOARD DECISION ON FINAL PLAN**

Within sixty (60) days of the Planning Board's determination that a complete application has been submitted, or within thirty (30) days of the public hearing should a public hearing be held, or within such other time limit as may be mutually agreed to by the Planning Board and the Applicant, the Planning Board shall approve, approve with conditions, or disapprove the Final Plan of the proposed Minor Subdivision.

**SECTION IX: SUBDIVISION REVIEW PROCESS: MINOR SUBDIVISIONS (continued)**

The Planning Board's failure to grant an approval within the deadlines specified above shall constitute a denial of the application by the Board, unless the applicant waives the specified deadlines.

In issuing its decision, the Planning Board shall make written findings of fact and conclusions of law that the proposed Final Plan does or does not meet the criteria in Section IV of this Ordinance.

**STEP 7: SIGNATURES**

Upon approving the Final Plan, those members of the Planning Board voting for approval shall sign two (2) reproducible copies and two (2) paper copies of the approved Subdivision Plan.

**STEP 8: FILING OF APPROVED FINAL PLAN**

Planning Board Orders and approved Final Plans for Minor Subdivisions shall be filed in the Penobscot County Registry of Deeds as specified in Section XI of this Ordinance.

**SECTION X: SUBDIVISION REVIEW PROCESS: MAJOR SUBDIVISIONS**

**SECTION USER'S GUIDE:** This section contains provisions related to the process to be followed during the review of Major Subdivisions.

**A. PROCEDURE**

The procedures for reviewing Major Subdivision Plans are as follows:

**STEP 1: REQUEST FOR REVIEW OF PRELIMINARY PLAN**

Within six (6) months after classification of the proposed subdivision as a Major Subdivision, the Applicant shall request, through the Code Enforcement Officer, to be placed on the Planning Board's agenda for Major Subdivision Preliminary Plan review.

Such a request shall be made at least twenty-eight (28) days prior to the regularly scheduled meeting at which the applicant wishes to be heard.

Failure to do so within six (6) months of classification may require a new pre-application conference.

**STEP 2: CEO REVIEWS SUBMISSION PACKET FOR COMPLETENESS**

The Code Enforcement Officer shall not place an applicant on the agenda until determining that the applicant has presented the submission packet required for Preliminary Plan review of Major Subdivisions by this Ordinance.

If the Code Enforcement Officer determines that the submission packet is not complete, the submissions shall be returned to the applicant with a Notice Of Incomplete Submission, specifying the required information found to be missing.

If the Code Enforcement Officer determines that the submission packet is complete, the applicant shall be issued a Dated Receipt Of Application and place the application on the agenda of the next regularly scheduled Planning Board meeting.

**STEP 3: NOTICE TO ABUTTERS AND ADJACENT MUNICIPALITY**

Upon the issuance of a Dated Receipt Of Application, the Code Enforcement Officer shall notify by mail all abutting property owners of the proposed subdivision, and the Clerk and Planning Board of municipalities that abut or include any portion of the proposed subdivision, if the proposed subdivision in fact abuts or is in part within another municipality.

Such notice shall specify that a Preliminary Plan and application for a proposed Major Subdivision has been received, the location of the proposed Major Subdivision, and give a general description of the proposal.

**STEP 4: PLANNING BOARD REVIEWS PRELIMINARY PLAN AND APPLICATION**

Within thirty (30) days from the receipt of an application, the Planning Board shall review the Preliminary Plan and submissions for completeness.

If the Planning Board determines that the application is not complete, it shall issue the applicant a Notice Of Incomplete Application specifying the additional information expected prior to further action on the application.

If the Planning Board determines that the application is complete, it shall issue the applicant a Notice of Complete Application.

**SECTION X: SUBDIVISION REVIEW PROCESS: MAJOR SUBDIVISIONS (continued)**

A Notice of Complete Application does not constitute the Planning Board's approval of the information submitted. The Planning Board reserves the right to request additional information throughout the review process up to and until Final Plan Approval.

Full evaluation of the Preliminary Plan shall begin only after the Planning Board has determined that a complete application has been filed. This evaluation may commence at the same meeting at which the determination of completeness has been made.

**STEP 5: PRELIMINARY PLAN PUBLIC HEARING MANDATORY**

Within thirty (30) days of the Planning Board's determination that a complete application has been submitted, or within such other time limit as may be mutually agreed to by the Planning Board and the applicant, the Planning Board shall hold a public hearing on the Preliminary Plan of the proposed Major Subdivision.

Notice of the public hearing shall be given pursuant to the provisions of Section III.G of this Ordinance.

**STEP 6: PLANNING BOARD DECISION ON PRELIMINARY PLAN**

Within thirty (30) days of the public hearing, or within such other time limit as may be mutually agreed to by the Planning Board and the Applicant, the Planning Board shall approve, approve with conditions, or disapprove the Preliminary Plan of the proposed Major Subdivision.

In issuing its decision, the Planning Board shall make written findings of fact that the proposed Preliminary Plan does or does not meet the criteria in Section IV of this Ordinance. No signature on the Preliminary Plan shall be required.

**STEP 7: REQUEST FOR REVIEW OF FINAL PLAN**

Within six (6) months after approval of a Preliminary Plan for a Major Subdivision, the applicant shall submit a complete plan to the Code Enforcement Officer and request, through the Code Enforcement Officer, to be placed on the Planning Board's agenda for Final Plan review.

Such a request shall be made at least thirty (30) days prior to the next regularly scheduled meeting at which the applicant wishes to be heard.

Failure to do so within the six (6) months of Preliminary Plan approval shall require that the Preliminary Plan be re-reviewed as provided in Steps 1 through 6, above.

Time spent by the Code Enforcement Officer in reviewing the packet pursuant to Step 8 shall not be counted in computing whether six (6) months have passed. This amendment shall apply to all applications, including those that have already received substantive review. Applications that have received substantive review at the time that this amendment is approved shall have six (6) months from the date of approval of the amendment to comply with these requirements.

**STEP 8: CEO REVIEWS SUBMISSION PACKET FOR COMPLETENESS**

The Code Enforcement Officer shall not place an applicant on the agenda until determining that the applicant has presented the submission packet required for Final Plan review of Major Subdivisions by this Ordinance.

If the Code Enforcement Officer determines that the submission packet is not complete, the submissions shall be returned to the applicant with a Notice Of Incomplete Submission, specifying the required information found to be missing.

**SECTION X: SUBDIVISION REVIEW PROCESS: MAJOR SUBDIVISIONS (continued)**

If the Code Enforcement Officer determines that the submission packet is complete, the applicant shall be issued a Dated Receipt of Application and place the application on the agenda of the next regularly scheduled Planning Board meeting.

**STEP 9: NOTICE TO ABUTTERS AND ADJACENT MUNICIPALITY OF FINAL PLAN**

Upon the issuance of a Dated Receipt Of Application, the Code Enforcement Officer shall notify by mail all abutting property owners of the proposed subdivision, and the Clerk and Planning Board of municipalities that abut or include any portion of the proposed subdivision, if the proposed subdivision in fact abuts or is in part within another municipality.

Such notice shall specify that a Final Plan and application for a proposed Major Subdivision has been received, the location of the proposed Major Subdivision, and give a general description of the proposal.

**STEP 10: PLANNING BOARD REVIEWS FINAL PLAN**

Within thirty (30) days from the receipt of the Final Plan, the Planning Board shall notify the applicant in writing either that the Final Plan is complete or, if the Final Plan is incomplete, the specific additional action needed to make a complete Final Plan.

If the Planning Board finds that the application is incomplete the applicant shall have thirty (30) days thereafter to submit a complete Final Plan. A failure to submit a complete Final Plan within that time shall require that the Preliminary Plan be re-reviewed as provided in Steps 1 through 6, above; to be followed by compliance with Steps 7 through 9, above.

**STEP 11: FINAL PLAN PUBLIC HEARING**

Within thirty (30) days of the Planning Board's determination that a complete application has been submitted, or within such other time limit as may be mutually agreed to by the Planning Board and the applicant, the Planning Board may decide to hold a public hearing on the Final Plan of the proposed Major Subdivision.

Notice of the public hearing shall be given pursuant to the provisions of Section III.G of this Ordinance.

**STEP 12: PLANNING BOARD DECISION ON FINAL PLAN**

Within sixty (60) days of the Planning Board's determination that a complete application has been submitted, or within thirty (30) days of the public hearing, in the event the Planning Board decides to hold a public hearing, or within such other time limit as may be mutually agreed to by the Planning Board and the Applicant, the Planning Board shall approve, approve with conditions, or disapprove the Final Plan of the proposed Major Subdivision.

In issuing its decision, the Planning Board shall make written findings of fact and conclusions of law that the proposed Final Plan does or does not meet the criteria in Section IV of this Ordinance.

**STEP 13: SIGNATURES**

Upon approving the Final Plan, those members of the Planning Board voting for approval shall sign two (2) reproducible copies and two (2) paper copies of the approved Subdivision Plan.

**SECTION X: SUBDIVISION REVIEW PROCESS: MAJOR SUBDIVISIONS (continued)**

**STEP 14: FILING OF APPROVED FINAL PLAN**

Planning Board Orders and approved Final Plans for Major Subdivisions shall be filed in the Penobscot County Registry of Deeds as specified in Section XI of this Ordinance.

**B. SUBMISSION PACKET**

The submission packet required for Major Subdivisions shall include the following:

**1. APPLICATION AND ATTACHMENTS**

An application and attachments for Planning Board review of Major Subdivisions shall be submitted as specified in Section XII of this Ordinance.

**2. FINAL SUBDIVISION PLAN**

A Final Subdivision Plan for Planning Board review of Major Subdivisions shall be submitted as specified in Section XIII of this Ordinance.

**3. ADMINISTRATIVE FEES AND ESCROW ACCOUNT**

An administrative fee and escrow account for Planning Board review of Major Subdivisions shall be submitted as specified in Section XIV of this Ordinance.

## **SECTION XI: FILING PROCEDURES FOR APPROVED SUBDIVISIONS**

**SECTION USER'S GUIDE:** This section contains provisions related to the process to be followed in filing Planning Board Orders and approved Subdivision Plans in the Registry of Deeds.

### **A. FILING OF PLANNING BOARD ORDERS REQUIRED PRIOR TO SIGNING OF AND FILING OF APPROVED FINAL SUBDIVISION PLANS**

A copy of the Planning Board's Order regarding any Final Subdivision Plans, including the Board's findings of fact and conclusions and any conditions of approval shall be filed, by the applicant, in the Penobscot County Registry of Deeds.

The book and page number of such recording shall appear and be referenced on the approved Final Subdivision Plan prior to the recording of such Plan, as set forth in Section C below.

### **B. FILING SECURITY DEPOSIT REQUIRED**

Prior to the Planning Board's signing of the Final Subdivision Plan, the applicant shall provide the Planning Board with a filing securing deposit, in the form of a cashier's check in the amount of \$500 made payable to the Town of Holden.

### **C. SIGNING OF APPROVED FINAL SUBDIVISION PLANS**

Upon receipt of a copy of the recorded Planning Board Order, stamped by the Penobscot County Registry of Deeds, and a filing security deposit, the Planning Board shall enter in ink, in the places provided in the Final Subdivision Plan Approval Block, the book and page and/or file numbers where such Planning Order is recorded in the Penobscot County Registry of Deeds.

After entering the book and page numbers, a majority of the members of the Planning Board shall sign their names in ink in the places provided, on the two (2) reproducible copies and two (2) paper copies of the approved Final Subdivision Plan.

### **D. FILING OF THE SIGNED SUBDIVISION PLAN**

The signed original Final Subdivision Plan shall be filed, by the applicant, within ninety (90) days of the date of Planning Board signatures, in the Penobscot County Registry of Deeds.

### **E. FAILURE TO FILE AS REQUIRED TO RESULT IN VOIDING OF APPROVAL AND FORFEITURE OF FILING SECURITY DEPOSIT**

In the event that the applicant fails to file the approved Final Subdivision Plan within the ninety (90) days provided in Section D above, the Planning Board's approval shall be considered void and the filing security deposit forfeited.

### **F. RETURN OF FILING SECURITY DEPOSIT**

Upon receipt from the applicant, of a copy of the approved Final Subdivision Plan, stamped and dated by the Registry of Deeds, the \$500 filing security deposit shall be refunded to the applicant by the Town.

### **G. FORFEITED DEPOSITS ACCRUE TO THE TOWN**

In the event the applicant forfeits his/her filing security deposit, such funds shall accrue to the benefit of the Town.

## SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS

**SECTION USER'S GUIDE:** This section contains provisions related to the application forms to be used in the Subdivision Review Process and the information to be provided thereon and information to be attached thereto.

### A. APPLICATION FORM

The application form used in the subdivision review process contained in this Ordinance shall be provided by the Town, filled out by the Applicant and shall include the information required below.

### B. INFORMATION TO BE SUBMITTED

The following information shall be included in the application forms submitted to the Planning Board with the Final Plans for all Minor Subdivisions and with the Preliminary Plans for all Major Subdivisions:

#### 1. INFORMATION REGARDING THE APPLICANT

- a. The name, address, and phone number of the Owner of Record (Applicant).
- b. Information regarding the applicant's right, title, or interest in the parcel proposed to be subdivided.
- c. Information as to whether or not the applicant is a corporation and, if so, whether or not the corporation is licensed to do business in Maine.
- d. The name, address, and phone number of the applicant's authorized agent (if an agent is applying on behalf of applicant).
- e. The name, address, phone number, and registration number of the Land Surveyors, and/or Land Planners employed by the applicant to design the proposed subdivision.
- f. The name, address, and phone number of the individuals to whom all communications from the Planning Board should be directed.
- g. Information regarding the applicant's interest in any property abutting the parcel proposed to be subdivided and that the proposed subdivision plan covers his/her entire, contiguous holdings.

#### 2. INFORMATION REGARDING PARCEL PROPOSED TO BE SUBDIVIDED

- a. The book and page numbers from Registry of Deeds describing the parcel proposed to be subdivided.
- b. The tax map and lot numbers from Tax Assessor's Office describing the parcel proposed to be subdivided.
- c. The existing use of the property proposed to be subdivided.
- d. The total acreage of parcel proposed to be subdivided.
- e. The present zoning of parcel proposed to be subdivided.
- f. Whether or not the parcel proposed to be subdivided is part of a prior approved subdivision.
- g. Whether or not any part of the parcel proposed to be subdivided is within the Shoreland Zone.

## **SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

- h. Whether or not there are any freshwater wetlands (prepared by a State Certified Soil Scientist or Geologist registered in the State of Maine), based on an on-site investigation, streams or ponds located in whole or in part on the parcel proposed to be subdivided.
- i. Whether or not there are any significant groundwater aquifers located in whole or in part on the parcel proposed to be subdivided.
- j. Whether or not the parcel proposed to be subdivided is in whole or in part located within an identified special flood hazard area.
- k. Whether or not the parcel proposed to be subdivided has any identified critical natural resources or wildlife habitats, as identified in the 2007 Comprehensive Plan, located in whole or in part on the parcel proposed to be subdivided.
- l. The location of snowmobile trails shown on the Interconnecting Trail System map published by the Maine Department of Conservation, or recognized, club-maintained trails.
- m. Whether or not the parcel proposed to be subdivided contains any scenic areas as identified in the 2007 Comprehensive Plan.

### **3. INFORMATION REGARDING PROPOSED SUBDIVISION**

- a. Name of the proposed subdivision.
- b. Type of proposed subdivision. (e.g.: residential, commercial, mobile home, mixed, etc.)
- c. Number of lots and/or units proposed.
- d. Information regarding proposed methods of disposing of sewage wastes generated by the proposed subdivision.
- e. Information regarding proposed methods of supplying water required by the proposed subdivision.
- f. Information regarding proposed methods of disposing of solid wastes generated by the proposed subdivision.
- g. Information regarding proposed methods of controlling and/or preventing soil erosion and sedimentation resulting from the proposed subdivision.
- h. Information regarding proposed methods of handling changes in storm water and/or surface water drainage patterns resulting from the proposed subdivision.
- i. Information regarding proposed interior subdivision roads.
- j. Information regarding proposed methods of handling traffic volumes projected to be generated by the proposed subdivision.
- k. Estimated dates of starting and completing any proposed construction.
- l. Estimated costs of required and proposed improvements.

### **C. EXHIBITS TO ACCOMPANY SUBDIVISION APPLICATIONS**

The following are specifications for exhibits to accompany subdivision applications.

**SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

**EXHIBIT 1: LOCATION MAP**

All subdivision applications shall be accompanied by a copy of a 7.5 minute USGS quadrangle map or maps, in the center of which the boundaries of the proposed subdivision have been delineated, trimmed to an 8 1/2"x11" sheet size.

**EXHIBIT 2: TAX MAP**

All subdivision applications shall be accompanied by a copy, reduced to 8 1/2" x 11", of the Property Tax Map on which the parcel proposed to be subdivided is located, with the property cross-hatched or otherwise graphically identified. Copies of these maps are available at the Town Offices.

**EXHIBIT 3: DOCUMENTATION OF RIGHT, TITLE OR INTEREST**

All subdivision applications shall be accompanied by a copy of a deed, purchase and sale agreement, or similar document demonstrating a legal right, title, or interest in the parcel proposed to be subdivided.

**EXHIBIT 4: WRITTEN AND GRAPHIC HISTORY OF OWNERSHIP AND DIVISION**

All subdivision applications shall be accompanied by a written and graphic history of the ownership of the property and any division of the property during the past five (5) years. This history shall include the names and addresses of persons to whom any divisions have been conveyed, the date of any such conveyances, and copies of such conveyances as recorded in the Penobscot County Registry of Deeds. When submitted as part of an application for Preliminary Plan approval, such a History of Ownership and Division shall be signed by a licensed attorney or be signed and stamped by a registered Land Surveyor.

**EXHIBIT 5: AGENT'S LETTER OF AUTHORIZATION**

All subdivision applications shall be accompanied by a letter signed by the owner of the parcel proposed to be subdivided authorizing someone other than him/herself to act as his/her agent, if an agent is representing the owner.

**EXHIBIT 6: WATER SUPPLY - INDIVIDUAL WELLS**

If Individual Wells are proposed, all subdivision applications shall be accompanied by a letter including calculations of subdivision's foreseeable water needs, certifying that sufficient, healthful water for the reasonably foreseeable needs of the subdivision is available, prepared by a licensed well-driller knowledgeable of the area, or other qualified professional.

**EXHIBIT 7: WATER SUPPLY - COMMON SYSTEM**

If a Common Water Supply System is proposed, all subdivision applications shall be accompanied by a report prepared by a registered professional engineer or geologist, including the following;

- a. Calculations of project's foreseeable water needs;
- b. Certification that sufficient, healthful water for the reasonably foreseeable needs of the subdivision is available;
- c. Certification that the design of common well(s) is in conformance with Maine Drinking Water Regulations, Title 22 MRSA, Section 2601; and

**SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

d. A detailed description of the proposed method for providing appropriate long-term operation and maintenance of system and name of person or entity proposed to be responsible for operation and maintenance of system.

**EXHIBIT 8: HIGH INTENSITY SOIL SURVEY**

All subdivision applications shall be accompanied by a medium Intensity Soil Survey Map and a written report describing the soils present on the site, prepared by a Maine Certified Soil Scientist. The Board may require High Intensity Soil Survey mapping for areas of intensive development such as roads and structures.

**EXHIBIT 9: SWCD EROSION CONTROL SPECIFICATIONS AND PLAN**

If a Minor Subdivision, the application shall be accompanied by written Erosion and Sedimentation Control Specifications and an Erosion and Sedimentation Control Plan, prepared in consultation with the Penobscot County Soil and Water Conservation District, or any qualified professional.

**EXHIBIT 10: EROSION AND SEDIMENTATION CONTROL PLAN AND SPECIFICATIONS**

If a Major Subdivision, the application shall be accompanied by written Erosion and Sedimentation Control Specifications, prepared and stamped by a qualified professional, which describes measures to be followed to control erosion and sedimentation during and after the construction of the proposed subdivision including:

a. **TEMPORARY EROSION AND SEDIMENTATION CONTROL:**

1.) A site map showing:

- a.) Existing and proposed two foot contours in contrasting lines;
- b.) The limits of areas disturbed by construction;
- c.) The location of roads, lots, buffer strips, topsoil stockpiles, all existing and proposed culverts, ditches, diversions, waterways and subsurface drainage systems; and
- d.) The location of all temporary erosion controls including hay bale barriers, stone check dams, silt fencing, and sedimentation basins.

2.) Calculations, including;

- a.) Stone check dam spacing calculations; and
- b.) Sedimentation basin sizing calculations based on SCS TR-55 or TR-20 storm water runoff calculations using a 10 year, 24 hour storm event with a minimum 10 hour detention time.

b. **PERMANENT EROSION CONTROL**

1.) A site map showing:

- a.) Existing and proposed two foot contours in contrasting lines;
- b.) The location of roads, lots, culvert, ditches, waterways, diversion, buffer strips, detention basins, subsurface drainage systems, inlet and outlet protection aprons, ditch rip-rapping, and plunge pool; and

## SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)

- c.) Drainage area and flow lines used for sizing calculations of culverts, waterways, diversions, and ditches.
- 2.) Calculations, including:
- a.) Man-made culvert and ditch capacity calculations based on a 10 year, 24 hour storm. Address overflow during a 25 year, 24 hour storm where the system feeds a detention basin;
  - b.) Culvert capacity calculations for natural drainage features are to be based on a 25 year, 24 hour storm;
  - c.) A schematic diagram should accompany each culvert capacity calculation. Each schematic should show road crown, inlet invert, and headwater elevation all relative to the outlet invert, including culvert type, length, and diameter;
  - d.) Diversion, waterways, outlet protection aprons, plunge pools, and rip-rap sizing calculations based on recommendation by the Maine Erosion and Sedimentation Control Handbook for Construction, Best Management Practices, March 1991; and
  - e.) Subsurface drainage systems capacity calculations.
- c. DETAIL SHEETS:
1. Plans suitable for bidding and construction, including the following details:
- a.) Grassed and rip-rap ditches, waterways, and diversions;
  - b.) Hay bale barriers, silt fences, and stone check dams;
  - c.) Culverts, plunge pools, inlet and outlet protection;
  - d.) Catch basin and pipe installation;
  - e.) Sedimentation basin; and
  - f.) Erosion control notes including:
    - i) Disturbed area seed, mulch, lime, and fertilizer types, rates and application methods. Such areas shall be permanently stabilized within 15 days of final grading, or temporarily stabilized within 30 days of initial disturbance of soil. Such areas shall be stabilized within 7 days when located on stream, river or lake watersheds;
    - ii) Schedule outline: erosion control and construction sequence of ponds, roads and ditches, seeding dates, and frequency of erosion and sedimentation control inspections and maintenance;
    - iii) Plans to minimize acreage of disturbed land open at any time;
    - iv) The name, address, and telephone number of the person(s) responsible for inspecting the erosion control measures; and
    - v) Provision to remove temporary erosion control measures.

**SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

**EXHIBIT 11: TRAFFIC IMPACT ANALYSIS**

If a Major Subdivision, the application shall be accompanied by a Traffic Impact Analysis, prepared by a registered Professional Engineer experienced in Traffic Analysis, which includes the following:

- a. Estimate of number and types of daily vehicle trips generated by the proposed subdivision;
- b. Travel routes to be utilized by the proposed subdivision from the site to the main thoroughfare;
- c. Duration of traffic movement, generated by the proposed subdivision from the site to the main thoroughfare, both during and after project construction from the site to the main thoroughfare;
- d. Off-site distribution of traffic generated by the proposed subdivision;
- e. Discussion of turning movement at nearby intersections; and
- f. Accident Records on nearby intersections and public roads.

**EXHIBIT 12: HIGHWAY ENTRANCE PERMITS**

If the subdivision proposes a new entrance(s) onto any State Highway, the application shall be accompanied by a copy of the Entrance Permit(s) issued by the Maine Department of Transportation.

**EXHIBIT 13: INTERIOR ROAD DESIGN**

If the subdivision proposes interior roads, the application shall be accompanied by the following documents related to the design of such roads:

- a. A typical road cross section;
- b. If road has a grade greater than five percent (5%) at any point and/or if there are significant cut and fill areas, a Road Profile prepared by a registered Professional Engineer;
- c. When road profiles are required, road cross sections at fifty foot (50') intervals along the profile and at fifty feet (50') in front of and fifty feet (50) past the profile section.
- d. Plan view of each road intersection created by the project which shows the following:
  - 1) Names of the intersecting roads;
  - 2) Speed limits on each of the intersecting roads; and
  - 3) Left and Right sight distances.

**EXHIBIT 14: INTERIOR ROAD MAINTENANCE**

If the subdivision proposes interior roads, the application shall be accompanied by the following documents related to the maintenance of such roads:

**SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

- a. If roads are to remain private, a Statement describing provisions to assure their proper long term maintenance and repair; or
- b. If roads are to be dedicated to Town, a Statement describing provisions made to assure their proper maintenance until Town accepts responsibility.

**EXHIBIT 15: SEWAGE DISPOSAL - INDIVIDUAL SUBSURFACE DISPOSAL SYSTEMS**

If individual subsurface disposal systems are proposed, the application shall be accompanied by a report prepared by a licensed Site Evaluator including:

- a. A Map showing the location of test pits for each lot;
- b. Complete soil profile logs for each test pit; and
- c. Form HHE 200's for each proposed subsurface disposal system.

**EXHIBIT 16: SEWAGE DISPOSAL - COMMON SUBSURFACE DISPOSAL SYSTEMS**

If a common and/or engineered system is proposed, the application shall be accompanied by a report prepared by a registered Professional Engineer including:

- a. System design drawings and specifications; and
- b. A letter of review and approval from the Division of Health Engineering, Maine Department of Health and Human Services.

**EXHIBIT 17: SOLID WASTE GENERATION AND DISPOSAL STATEMENT**

If a Minor Subdivision, the application shall be accompanied by a Solid Waste Generation and Disposal Statement indicating the amount of solid waste and sewage sludge likely to be generated by the proposed subdivision and the steps proposed to appropriately dispose of the solid waste and sewage sludge likely to be generated.

**EXHIBIT 18: SOLID WASTE GENERATION REPORT**

If a Major Subdivision, the application shall be accompanied by a Report, prepared by a qualified professional, calculating the amount of solid waste and sewage sludge likely to be generated by the proposed subdivision.

**EXHIBIT 19: SOLID WASTE DISPOSAL FACILITY STATUS AND CONTRACT**

If a Commercial Landfill is proposed to be used to dispose of the subdivision's solid waste, the application shall be accompanied by a letter from the Bureau of Land Quality Control of the Maine Department of Environmental Protection confirming the legal status of the commercial landfill and a copy of the contract which covers the hauling and disposal of the subdivision's solid waste for the next five (5) years.

**EXHIBIT 20: SLUDGE DISPOSAL FACILITY STATUS AND CONTRACT**

If a private/commercial sludge disposal area is proposed to be used to dispose of the subdivision's sludge waste, the application shall be accompanied by a letter from the Bureau of Land Quality Control of the Maine Department of Environmental Protection confirming the legal status of the private/commercial sludge disposal area and a copy of the contract which covers the hauling and disposal of the sludge waste for the next five (5) years.

**SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

**EXHIBIT 21: AESTHETIC, CULTURAL AND NATURAL VALUES IMPACT STATEMENT**

If a Minor Subdivision, the application shall be accompanied by a written Statement detailing the presence of any significant historic or archaeologic resources, significant fish and wildlife habitats, significant registered natural/critical areas, or identified scenic resources on or adjacent to the proposed subdivision and steps that have been taken or will be taken to minimize any adverse impact from the proposed subdivision on such significant resources.

**EXHIBIT 22: VISUAL RESOURCES IMPACT ASSESSMENT**

If a Major Subdivision, the application shall be accompanied by a Visual Resources Impact Assessment, prepared by a qualified professional, describing the steps that have been taken and will be taken to reduce the visual impact of the proposed subdivision on surrounding properties and efforts made or to be made to preserve existing elements of the site which contribute to maintenance of scenic character.

**EXHIBIT 23: HISTORIC RESOURCES IMPACT ASSESSMENT**

If a Major Subdivision, the application shall be accompanied by a Letter from the Maine Historic Preservation Commission commenting on any historic sites, structures, or archaeologic sites located on or near the proposed subdivision and, if any, an Historic Resources Impact Assessment, prepared by a qualified professional, describing the steps that have been taken or will be taken to minimize the subdivision's potential impact on any identified structures or sites.

**EXHIBIT 24: UNIQUE NATURAL RESOURCES IMPACT ASSESSMENT**

If a Major Subdivision, the application shall be accompanied by a Letter from the Maine Critical Areas Program commenting on any "rare and irreplaceable natural areas" located on or near the project site and, if any, a Unique Natural Resources Impact Assessment, prepared by a qualified professional, describing the steps that have been taken or will be taken to minimize the subdivisions potential impact on any identified natural areas.

**EXHIBIT 25: FISHERIES AND WILDLIFE HABITAT IMPACT ASSESSMENT**

If a Major Subdivision, the application shall be accompanied by a Letter from the Maine Department of Inland Fisheries and Wildlife commenting on any significant fisheries and/or wildlife habitat located on or near the project site and, if any, a Fisheries and Wildlife Habitat Impact Assessment, prepared by a qualified professional, describing provisions made to minimize the subdivision's potential adverse impact on any of the identified significant fisheries and wildlife habitat.

**EXHIBIT 26: COMPLIANCE STATEMENT**

If a Minor Subdivision, the application shall be accompanied by a written statement prepared by the applicant or his/her agent describing the steps taken or to be taken to comply with all applicable design, dimensional, and procedural provisions of this Ordinance and to comply with each of the other criteria of approval contained in Section IV of this Ordinance.

**EXHIBIT 27: COMPLIANCE MEMO - LOCAL ORDINANCES AND PLANS**

If a Major Subdivision, the application shall be accompanied by a Regulatory Compliance Memorandum, prepared by a qualified professional, outlining the project's conformance with the Town's adopted Comprehensive Plan, this

## **SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

Subdivision Ordinance, and other applicable locally adopted Ordinances and regulations.

### **EXHIBIT 28: COMPLIANCE MEMO - STATE AND FEDERAL LAWS AND REGULATIONS**

If a Major Subdivision, the application shall be accompanied by a Regulatory Compliance Memorandum, prepared by a qualified professional, outlining the project's conformance with all applicable State and Federal laws and regulations, including copies of the completed applications for all required State and Federal permits and approvals.

### **EXHIBIT 29: FINANCIAL CAPACITY REPORT**

All subdivision applications shall be accompanied by a Financial Capacity Report which shall include the following:

- a. An itemized list of all of the proposed subdivision's estimated planning, design, development, and construction costs; and
- b. If the applicant is a corporation, a copy of the most recent corporate annual report showing sufficient financial capacity to cover the costs associated with completing the proposed subdivision as required and explanatory material interpreting the report; or
- c. If the proposed subdivision is to be personally financed, a bank letter or other documentary evidence demonstrating the availability of sufficient funds to appropriately cover the costs associated with completing the subdivision as required; and
- d. If the proposed subdivision is to be personally financed, a Project Financing Plan including the following:
  - 1) A cash equity commitment of twenty percent (20%) of the estimated costs; plus
  - 2) A financial schedule for the remaining financing; and
  - 3) A letter of commitment for the remaining funding required stating any and all conditions of commitment.

### **EXHIBIT 30: TECHNICAL ABILITY**

All subdivision applications shall be accompanied by the resume of the applicant describing his/her technical ability to undertake the proposed subdivision including any prior experience and appropriate training, and the resumes of all professionals involved in the planning, design, development, and construction of the proposed subdivision, describing their technical and professional training, expertise, experience and special ability to undertake their respective roles in the proposed subdivision.

### **EXHIBIT 31: SURFACE WATER MANAGEMENT STATEMENT**

All subdivision applications shall be accompanied by a Surface Water Management Statement which includes the following:

- a. The name, if known, and location of any flowing water including brooks and streams on or abutting the property;

**SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

- b. If the project is within the watershed of a lake or pond, the name of that lake and/or pond;
- c. Description of the general topography of the parcel proposed to be subdivided;
- d. Description of how the proposed subdivision will or will not cause any alteration of natural drainage ways including intermittent streams, perennial streams, and vegetated swales;
- e. Identification of any portion of the site subject to ponding or flooding; and
- f. Description of how changes in surface water drainage will affect other properties and how these effects will be controlled.

**EXHIBIT 32: SURFACE WATER MANAGEMENT PLAN**

If a Major Subdivision, the application shall be accompanied by a Surface Water Management Plan prepared by a qualified professional showing the following:

- a. All existing water bodies, water courses, drainage ways, channels, intermittent and perennial streams within the project site;
- b. The nature, width, and location of proposed easements, rights-of-way, culverts, catch basins or other means of channeling surface/storm water within the proposed subdivision and over adjacent properties;
- c. All proposed vegetative filter/buffer strips;
- d. Pre-development and post-development drainage watersheds with their associated hydraulic length lines; and
- e. Identification of any portion of the site subject to ponding or flooding.

**EXHIBIT 33: GROUND WATER RESOURCES IMPACT STATEMENT**

If a Minor Subdivision, the application shall be accompanied by a written Statement prepared by the applicant describing the measures taken and to be taken to prevent degradation of existing ground water quality on and adjacent to the proposed subdivision.

**EXHIBIT 34: NITRATE ASSESSMENT**

If a Major Subdivision, the application shall be accompanied by a Hydro-geologic Assessment, prepared by a registered geologist, describing the following:

- a. The presence of sand and gravel aquifers located on or near the project site;
- b. The depth to, direction, and rate of flow of groundwater;
- c. An assessment of the potential of the project for adverse effects to on-site wells, off-site wells, and the quality of adjacent surface waters;
- d. Recommendations for minimizing or eliminating adverse effects from nitrates and nitrites on drinking water supplies and on on-site or adjacent flowing and surface waters; and
- e. Proposals for implementation of recommendations.

**SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

**EXHIBIT 35: WATER QUALITY BACKGROUND ASSESSMENT**

If a Major Subdivision and deemed warranted by the Planning Board, the application shall be accompanied by a Water Quality Background Assessment, prepared by a registered geologist, describing the existing Phosphorous (P), Phosphorous/Potassium/Nitrogen ratio (PKN), Nitrate Ammonia (NH<sub>3</sub>-N), Nitrates (NO<sub>3</sub>-N), Nitrites (NO<sub>2</sub>-N), Sodium (Na), and Chlorine (Cl) levels in on-site and adjacent groundwater and/or surface waters.

**EXHIBIT 36: RECOMMENDATIONS FOR MINIMIZING OR ELIMINATING WATER QUALITY IMPACTS**

If a Major Subdivision and a Water Quality Background Assessment has been requested, the application shall be accompanied by written Recommendations for Minimizing or Eliminating Water Quality Impacts, prepared by a registered geologist, describing the steps taken and to be taken to minimize or eliminate the adverse effects from existing Phosphorus (P), Phosphorus/Potassium/Nitrogen ratio (PKN), Nitrate Ammonia (NH<sub>3</sub>-N), Nitrates (NO<sub>3</sub>-N), Nitrites (NO<sub>2</sub>-N), Sodium (Na), and Chlorine (Cl) levels in on-site drinking water supplies and on on-site and adjacent groundwater and/or surface waters, including a detailed Implementation Strategy for the implementation of actions recommended.

**EXHIBIT 37: FLOOD HAZARD PROTECTION STATEMENT**

If any part of the proposed subdivision is located within a one hundred (100) year flood-prone area as shown on Federal Emergency Management Agency's Flood Boundary and Floodway Maps, the application shall be accompanied by a written Statement describing the steps taken or to be taken in the planning design and development of the proposed subdivision to prevent flood damage on-site and to prevent increased flood damage on downstream properties.

**EXHIBIT 38: FRESHWATER WETLAND PROTECTION STATEMENT**

If the parcel proposed to be subdivided contains within it or abutting it, in whole or in part, any freshwater wetlands, as defined in Title 38, MRSA, Section 480-B, subsection 4, regardless of size, the application shall be accompanied by a Freshwater Wetlands Protection Statement describing the steps taken or to be taken in the planning, design, and development of the proposed subdivision to prevent adverse impact to freshwater wetland values.

**EXHIBIT 39: FRESHWATER WETLANDS MAP**

If the parcel proposed to be subdivided contains within it or abutting it, in whole or in part, any freshwater wetlands, as defined in Title 38, MRSA, Section 480-B, subsection 4, regardless of size, the application shall be accompanied by a Freshwater Wetlands Map prepared by a State Certified Soil Scientist or Geologist, registered in the State of Maine, based on an on-site investigation, of the parcel showing the location and boundaries of any such freshwater wetlands.

**EXHIBIT 40: FLOWING WATERS PROTECTION STATEMENT**

If the parcel proposed to be subdivided contains within it or abutting it, in whole or in part, any river, stream or brook as defined in Title 38, MRSA, Section 480-B, subsection 9, the application shall be accompanied by a Flowing Waters Protection Statement describing the steps taken or to be taken in the planning, design, and development of the proposed subdivision to prevent adverse impact on any such rivers, streams, or brooks.

**SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

**EXHIBIT 41: FLOWING WATERS MAP**

If the parcel proposed to be subdivided contains within it or abutting it, in whole or in part, any river, stream, or brook, as defined in Title 38, MRSA, Section 480-B, subsection 9, the application shall be accompanied by a Flowing Waters Map showing the location, configuration, and direction of flow of any such rivers, streams, or brooks.

**EXHIBIT 42: STORM WATER MANAGEMENT PLAN**

If a Major Subdivision, the application shall be accompanied by a Storm Water Management Plan, prepared by a qualified professional, which includes the following:

**a. FOR OFF-SITE WATERSHEDS**

- 1) A narrative describing:
  - a) How the proposed site is oriented within the watershed;
  - b) How runoff from the site will affect the watershed hydrography and nearby properties;
  - c) Whether or not it is possible to reduce the watershed peak flow by detaining stormwater runoff on-site; and
  - d) Areas and structures that historically flood or may be affected by increased flows.
- 2) The following maps showing the actual project boundaries and watershed boundaries, sub-area, and flow lines, on each:
  - a) USGS 7.5 minute series quadrangle map; and
  - b) USDA SCS Medium Intensity Soil Survey Map.

**b. FOR ON-SITE WATERSHEDS**

- 1) Stormwater runoff calculations, modeling pre-development and post-development conditions, using either SCS's TR-55 or TR-20 methodologies, including:
  - a) A narrative describing how the calculations were performed;
  - b) Runoff curve assumptions, consistent with clearing limits legally guaranteed through conservation easements or deed restrictions, etc.;
  - c) Runoff calculations performed for 2, 10, and 25 year, 24 hour storm events; and
  - d) Runoff Curve Number, Time of Concentration, and Travel Time calculations for each sub-area.
- 2) Separate pre-development and post-development maps, each with the following details:
  - a) Existing and proposed two (2) foot contour lines, clearly contrasting;
  - b) Site soils, surveyed at an appropriate level of detail;

**SECTION XII: SUBDIVISION APPLICATION AND ATTACHMENTS (continued)**

- c) Project and drainage area boundary lines;
  - d) Sub-area boundaries;
  - e) Stormwater time of concentration and time of travel routing lines divided into flow type segments;
  - f) All ponded and wetland areas, existing and proposed;
  - g) All man-made and natural drainage ways;
  - h) All existing and proposed culverts; and
  - i) Locations of all piping systems.
- 3) If calculations indicate that stormwater detention is necessary, the following information is also required:
- a) Detention basin sizing calculations, including stage-storage curves, and outlet velocities;
  - b) Detail and sizing calculations for the outlet and emergency spillway;
  - c) Embankment material specifications with compaction requirements if any type of dike is to be constructed;
  - d) Location of detention and outlet structure shown on the site plan;
  - e) A detail sheet showing plan and cross sectional views of the detention basin, outlet structure, emergency overflow structure, and associated rip-rapped areas; and
  - f) A Narrative describing the operation and maintenance of the detention basin(s) and other assorted structures, during construction and when project is complete. This Narrative should include provisions for excavating accumulated sediments or debris and identify who will have legal responsibility for maintenance.

**SECTION XIII: PREPARATION AND SUBMISSION REQUIREMENTS FOR PRELIMINARY AND FINAL SUBDIVISION PLANS**

**SECTION USER'S GUIDE:** This section contains specifications related to the preparation and submission of Preliminary and Final Subdivision Plans.

**A. PREPARATION AND SUBMISSION REQUIREMENTS: PRELIMINARY SUBDIVISION PLANS**

Preliminary Subdivision Plans shall be prepared and submitted to the Planning Board, through the Code Enforcement Officer, as follows:

**1. NUMBER OF COPIES TO BE SUBMITTED**

Preliminary Subdivision Plans shall be submitted in ten (10) sets of one or more maps or drawings, printed or reproduced on paper. Ten (10) copies of the Plan(s) reduced to a size of 8 1/2 x 11 inches shall be submitted in addition, ten (10) copies of the application and required exhibits shall be submitted with the Preliminary Plans.

**2. SHEET SIZE**

Preliminary Subdivision Plans shall be 24 by 36 inches in size, and shall have a margin of two (2) inches outside of the border line on the left side for binding and a one (1) inch margin outside the border along the remaining sides.

**3. PLAN SCALE**

Preliminary Subdivision Plans shall be drawn to a scale of within a range of twenty (20) feet to one hundred feet (100) to the inch.

**B. INFORMATION TO BE SHOWN ON PRELIMINARY SUBDIVISION PLANS**

The following information shall be shown on Preliminary Subdivision Plans:

**1. GENERAL INFORMATION**

The proposed name of the subdivision, name of the Town, the date the Plan was prepared, true north arrow, graphic map scale, names and addresses of the record owner, applicant, and professional or professional firm who prepared the plan.

**2. BOUNDARY SURVEY**

A boundary survey of the tract made and certified by a Maine licensed land surveyor prepared in accordance to the Rules set forth by the Maine Board of Licensure for Professional Land Surveyors. Said boundary survey shall include, but not limited to, the following:

- a. Boundary lines of the tract with bearings no less than to the nearest 30 seconds, distances no less than to the nearest 0.01-foot, curve data and any additional information to reproduce the survey mathematically;
- b. Type of monument set or found at each parcel corner;
- c. Rights of way and easements of record within or immediately surrounding the tract.

**3. CONTOUR LINES**

Contour lines at the interval specified by the Board, showing elevations in relation to Mean Sea Level (NGVD).

**SECTION XIII: PREPARATION AND SUBMISSION REQUIREMENTS FOR PRELIMINARY AND FINAL SUBDIVISION PLANS** (continued)

4. PROPOSED LOT LINES AND LOT NUMBERS

Proposed lot lines with appropriate dimensions in decimals of a foot and lot areas in square feet for lots smaller than 43,560 square feet in area and in acres to the nearest one hundredth of an acre for lots greater than 43,560 square feet. All proposed lots shall be numbered.

5. EXISTING MAN-MADE FEATURES

The location, names, and widths of existing roads, highways, easements, building lines, parks and other open spaces on or adjacent to the proposed subdivision and the location and size of existing sewers, utility poles, water mains, culverts, other underground utilities and drainage ways on or adjacent to the proposed subdivision.

6. EXISTING NATURAL FEATURES

The location and configuration of existing water bodies, watercourses and wetlands on or immediately adjacent to the parcel prepared by a State Certified Soil Scientist or Geologist, registered in the State of Maine, based on an on-site investigation, existing water bodies, watercourses and the cover types (open field, open shrub, wooded, etc.), and other significant physical features, including the location of any trees larger than twenty-four (24) inch diameter at breast height in areas of proposed construction or where clearing of trees will be likely to occur.

7. NAMES OF ADJACENT PROPERTY OWNERS

The names of the owners of record of all abutting properties, including those of any properties directly across and along any existing public road abutting the proposed subdivision.

8. PROPOSED IMPROVEMENTS

The location, names, and widths of any proposed roads, rights-of-way, easements, building lines, common open spaces associated with the proposed subdivision and the location and size of any proposed sewer lines, sewage disposal areas, water mains, wells, culverts and drainage ways associated with the proposed subdivision.

9. PUBLIC IMPROVEMENTS

The location and width of any existing and proposed roads or other public improvements, within the proposed subdivision, shown on the Official Map and/or the Comprehensive Plan, if any.

10. COMMON AND/OR PUBLIC AREAS AND FACILITIES

Identification of all parcels and facilities proposed to be dedicated for common use and/or public ownership and/or use, and the conditions of such dedication and a description of their proposed improvement and management.

11. FLOOD HAZARD AREA BOUNDARIES

If any portion of the subdivision is in a flood-prone area, the boundaries of such areas and the 100-year flood elevation.

12. EXISTING ZONING

The names and boundaries of any existing local zoning designations applicable to the property proposed to be subdivided.

**SECTION XIII: PREPARATION AND SUBMISSION REQUIREMENTS FOR PRELIMINARY AND FINAL SUBDIVISION PLANS (continued)**

**13. SURVEYOR/PLANNER'S CERTIFICATION AND SEAL**

The name, signature, registration number, and seal of the land surveyor who prepared the survey and the architect, engineer, or planning consultant who designed the plan.

**C. PREPARATION AND SUBMISSION REQUIREMENTS: FINAL SUBDIVISION PLANS**

Final Minor and Final Major Subdivision Plans shall be prepared and submitted to the Planning Board, through the Code Enforcement Officer, in the same manner as required for Preliminary Subdivision Plans by subsection A, above.

**D. INFORMATION TO BE SHOWN ON FINAL SUBDIVISION PLANS**

The same information required to be shown on Preliminary Subdivisions Plans, by subsection B, above, shall be shown on all Final Minor and Final Major Subdivision Plans.

In addition, the following shall be shown on all Final Minor and Final Major Subdivision Plans:

**1. FINAL PLAN APPROVAL BLOCK**

An Approval Block to record the approval of the Final Plan shall be permanently affixed to Final Minor and Final Major Subdivision Plans and shall read as follows:

<b>APPROVAL BLOCK</b>	
This Subdivision Plan has been approved with conditions by the Holden Planning Board in accordance with Title 30-A, MRSA, Section 4401, et seq..	
Approved lots may be sold or leased only in accordance with all applicable terms and conditions included in and/or attached to the written Order issued by the Planning Board on / / , and recorded in the Penobscot County Registry of Deeds in Book _____ on page _____.	
Signed	_____
	_____
	_____
	_____
	_____
	_____
	_____
	_____
	_____
Date	_____

## SECTION XIV: APPLICATION FEES AND TECHNICAL REVIEW ACCOUNT

**SECTION USER'S GUIDE:** This section contains provisions regarding the various fees required to be submitted with subdivision applications and escrow accounts to be established for assisting with the costs of reviewing the proposed subdivision.

### A. APPLICATION PACKET FEE

The Application Packet Fee required to cover printing costs for copies of the Application Form and copies of this Ordinance are as follows:

#### 1. COPIES OF SUBDIVISION APPLICATIONS

The non-refundable fee for copies of the Subdivision Application Form is \$5.00 per copy.

#### 2. COPIES OF ORDINANCE

The non-refundable fee for copies of this Ordinance is \$10.00 per copy.

### B. APPLICATION PROCESSING FEES

The Application Processing Fees required to cover the administrative handling costs associated with subdivision review under this Ordinance are as follows:

#### 1. MINOR SUBDIVISIONS

The non-refundable fee to accompany the application of Minor Subdivision Final Plans is \$250.00.

#### 2. MAJOR SUBDIVISIONS

The non-refundable fee to accompany the application of Major Subdivision Preliminary Plans is \$250.00 per lot or residential unit.

#### 3. PUBLIC HEARING FEE

The fees required to cover the costs associated with the publication in a paper of general circulation and mailing to all property owners within 300 feet of the proposed subdivision of the required notices for public hearings are \$150.00 for minor subdivisions and \$300.00 for major subdivisions.

### C. TECHNICAL REVIEW ACCOUNT

In addition to the fees for copies of the Application and Ordinance and the Application Processing Fee, the applicant shall pay a separate fee of \$200.00 per lot or dwelling unit to be deposited in a special account designated for the particular subdivision application, to be used by the Planning Board for hiring independent, consulting, and legal services to review the application.

This Technical Review Fee shall be paid prior to the start of the Planning Board's review of the Final Plan of a Minor Subdivision or the Preliminary Plan of a Major Subdivision.

This fee shall be paid in the form of a check made payable to the Town of Holden and the purpose of the fee shall be clearly indicated on the check. The town shall deposit this fee in a special bank account which is separate and distinct from all other Planning Board and Town accounts.

If the balance in this account is drawn down by 50% or more, the Board shall notify the applicant, and require that an additional \$150 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$150 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 50% of the original deposit.

**SECTION XIV: APPLICATION FEES AND TECHNICAL REVIEW ACCOUNT (continued)**

Any balance in the account remaining, after the completion and inspection of required improvements, shall be returned to the applicant.

## **SECTION XV: REVISIONS TO EXISTING PLANS AND TRANSFER OF APPROVAL**

**SECTION USER'S GUIDE:** This section contains provisions related to revisions of previously approved Subdivision Plans.

### **A. REVISIONS TO EXISTING PLAN**

Any application for subdivision approval which constitutes a revision or amendment to a Final Subdivision Plan, which has been previously approved, shall indicate that fact on the application and shall identify the original subdivision being revised or amended and reference the Book and Page in the Registry of Deeds where the plan is recorded.

Applications for revisions to existing plans shall comply with all of the fees, procedural requirements, and submissions required of this Ordinance for their classification.

The Planning Board shall make findings of fact and conclusions of law that the proposed revisions do or do not meet the criteria of approval provided in Section IV.

### **B. TRANSFER OF APPROVAL**

If the transfer in ownership of any approved subdivision involving public improvements or private road construction is anticipated prior to the successful completion of such improvements, the owner shall notify the Planning Board. The new owner shall be required to submit a subdivision plan amendment to the Planning Board for its review and actions.

## **SECTION XVI: GENERAL PERFORMANCE STANDARDS**

**SECTION USER'S GUIDE:** This section contains general performance standards with which all subdivision proposals submitted for approval pursuant to this Ordinance must comply.

In reviewing applications submitted pursuant to this Ordinance, the Board shall consider the following performance standards and make written findings that each has been met prior to issuing final approval.

### **A. CONFORMANCE WITH COMPREHENSIVE PLAN**

All proposed subdivisions shall be in conformance with the Comprehensive Plan and Policy Statements of the Town and with the provisions of all pertinent local ordinances and regulations, State and Federal laws and regulations.

### **B. RELATIONSHIP TO MUNICIPAL SERVICES**

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

### **C. PRESERVATION AND ENHANCEMENT OF THE LANDSCAPE**

The landscape shall be preserved in its natural state insofar as reasonably practicable by minimizing tree removal, disturbance of soil, and retaining existing vegetation during construction. After construction is completed, landscaping shall be planted that will define, soften or screen the appearance of off-street parking areas, buildings and other structures from the public right-of-way and abutting properties in order to enhance the physical design of the proposed development, and to minimize the encroachment of the proposed uses on neighboring land uses.

### **D. RELATIONSHIP TO SCENIC CHARACTER OF THE NEIGHBORHOOD**

Proposed buildings, structures and roads shall be related harmoniously to the terrain and to existing buildings and structures in the vicinity that have a visual relationship to the proposed subdivision, so they will not have an unreasonable adverse effect on the scenic character of the surrounding area, or on scenic resources identified in the 2007 Comprehensive Plan.

### **E. RETENTION OF OPEN SPACES AND NATURAL OR HISTORIC FEATURES**

All subdivisions in the Town of Holden shall be Conservation Subdivisions as described in Section VIII. See also Section XX: Requirements for Conservation Subdivisions

1. Rural Area Requirement: In rural areas including portions of the R1 Zone as described in the Comprehensive Plan, and all areas within R2 and R3 Zones, at least 50% of the land suitable for development in proposed subdivisions shall be preserved as open space.
2. Growth Area Requirement: In growth areas as described in the Comprehensive Plan, the applicant shall provide at least ten (10) percent of his total area as usable open space. In any subdivision twenty (20) acres or less, or containing ten (10) lots or dwelling units or less, the Board may grant a waiver for all or a portion of this requirement. It is desirable that areas reserved for recreation be at least two (2) acres in size and easily accessible from all lots within the subdivision.
3. Land reserved for open space purposes shall be of a character, configuration, and location suitable for the particular use intended. For example 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 roads of at least two hundred (200) feet, and have no major dimensions of less than two hundred (200) feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than

## **SECTION XVI: GENERAL PERFORMANCE STANDARDS (continued)**

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, lookouts, etc. where necessary and appropriate.

4. Where the proposed subdivision is located on a lake, pond, river or stream, a portion of the waterfront area, shall be included in the reserved land. The land so reserved shall be at least 200 feet wide measured perpendicularly from the normal high water mark.
5. If the Planning Board determines that the reservation of land for open space purposes would be inappropriate or that the land is not suitable or is insufficient in amount, the Board may waive the requirement of open space on the condition that the Applicant offer suitable land, as determined by the Planning Board, in another location or deposit a cash payment in lieu of land reservation, in an amount determined by the Planning Board, with the Town Clerk. Such a payment shall be placed in a trust fund to be used exclusively for the purchase and development of neighborhood sites for open space purposes. In growth areas, the amount of such payment shall be not more than 25% of the estimated market value, including the value attributable to the proposed subdivision improvements (such as roads, drainage facilities, utility services as defined in 33 M.R.S. § 458, etc.), for each lot approved on the final plan. In rural areas, the amount of such payment shall not be more than 75% of the estimated market value, including improvements (such as roads, drainage facilities, utility services as defined in 33 M.R.S. §458, etc.), for each lot approved on the final plan. The estimated market values shall be determined by the Town Tax Assessor. If the Applicant disagrees with the Assessor's determinations of value, the Applicant may submit an appraisal prepared by a duly certified appraiser under Maine law for the Board's consideration.
6. The Board may require that the development plans include a landscape plan that will show the preservation whenever practicable of any existing trees larger than twenty-four (24) inches diameter 4 feet from the ground, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally significant areas. Cutting of trees on the northerly borders of lots should be avoided as far as possible, to retain a natural wind buffer.

### **F. LAND NOT SUITABLE FOR DEVELOPMENT**

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the minimum lot size for the zone in which the development is located:

1. Land which is situated below the normal high water mark of any water body;
2. Land which is located within the one hundred (100) year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the applicant shows proof through the submittal of materials prepared by a Registered Land Surveyor which show that the property in question lies at least one (1) foot above the one hundred (100) year flood level. The elevation of filled or made land shall not be considered;
3. Land which is part of a right-of-way, or easement, including utility easements;
4. Land that has been created by filling or draining a pond or wetland;
5. Land that is located within a Resource Protection Zoning Classification;
6. Land consisting of Recent Flood Plain Soil;
7. Areas with sustained slopes of 20% or greater may be included in the calculation of lot area provided that there is at least one (1) acre of contiguous suitable area in which to construct structures and utilities; and

**SECTION XVI: GENERAL PERFORMANCE STANDARDS (continued)**

8. Land defined herein as a freshwater wetland.

**G. TOPSOIL AND VEGETATION REMOVAL**

1. Topsoil shall be considered part of the development and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
2. Except for normal thinning, clearing for approved construction, landscaping, and cutting of trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require an applicant to take measures to correct and prevent soil erosion in the proposed development.
3. To prevent soil erosion of shoreline areas, tree cutting in a strip paralleling the shoreline of a water body, and extending one hundred (100) feet inland from all points along the normal high water mark shall be limited in accordance with the clearing of vegetation provisions of the State of Maine Guidelines for Municipal Shoreland Zoning Ordinances in effect at the time.

**H. EROSION AND SEDIMENTATION CONTROL**

The following measures relating to conservation, erosion and sediment control shall be included where applicable as part of all projects submitted for review and approval under this Ordinance.

1. The procedures outlined in the erosion and sedimentation control plan, prepared and submitted by the applicant, shall be implemented during the site preparation, construction, and clean-up stages.
2. Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following best-management practices:
  - a. Stripping of vegetation, soil removal and re-grading or other development shall be done in such a way as to minimize erosion;
  - b. Development shall keep cut-fill operations to a minimum and ensure conformity with topography so as to create the least erosion potential and adequately handle the volume and velocity of surface water runoff;
  - c. The development shall not unreasonably increase the rate or volume of surface water runoff from the proposed site;
  - d. Whenever feasible, natural vegetation shall be retained, protected and supplemented;
  - e. The disturbed area and the duration of exposure shall be kept to a practical minimum;
  - f. Disturbed soils shall be stabilized as quickly as practicable;
  - g. Temporary vegetation or mulching shall be used to protect disturbed areas during development;
  - h. Permanent (final) vegetation and mechanical erosion control measures in accordance with the standards of the County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission shall be installed as soon as practicable after construction ends;
  - i. Until the disturbed area is stabilized, sediment in the run-off water shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods;
  - j. The top of a cut or the bottom of a fill section shall not be closer than ten (10) feet to an adjoining property, unless otherwise specified by the Board.

## **SECTION XVI: GENERAL PERFORMANCE STANDARDS (continued)**

- k. During grading operations, methods of dust control shall be employed wherever practicable;
- l. It is the responsibility of any person performing any activity on or across a communal stream, watercourse or swale or upon the floodway or right-of-way thereof to maintain as nearly as possible the present state of the stream, water course, swale, floodway or right-of-way during the duration of such activity and to return it to its original or equal condition after such activity is completed; and
- m. Maintenance of drainage facilities or watercourses originating and completely on private property is the responsibility of the owner to the point of open discharge at the property line or at a communal watercourse within the property.

### **I. LOT STANDARDS**

1. All the lot configurations should be designed to maximize the use of solar energy on building sites with suitable orientation.
2. Lot configuration and area shall be designed to provide for adequate off-road parking and service facilities based upon the type of development contemplated.
3. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.
4. Wherever possible, side lot lines shall be perpendicular to the road.
5. The division of tracts into parcels with substantially more than the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future re-subdivision. Where public utilities could be extended to the development in the foreseeable future, the development shall be designed to accommodate the extensions of utilities.
6. 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 the stream, or road to meet the minimum lot size, unless such lots are established lots of record prior to the adoption of this Ordinance.
7. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum dimensional requirements are prohibited, unless such lots are established lots of record prior to the adoption of this Ordinance.
8. All lots shall have a minimum of four (4) sides.

### **J. UTILITIES**

1. The Board may require electric, cable television, and telephone lines to be underground. Any utility installations remaining above ground shall be located so as to have a harmonious relation to neighboring properties and the site.
2. Underground utilities shall be installed prior to the installation of the final gravel base of the road.
3. The size, type, and location of street lights and utilities shall be shown on the plan and approved by the Board.

### **K. CONSTRUCTION IN FLOOD HAZARD AREAS**

When any part of a development is located in a Flood Hazard Area as identified by the Federal Emergency Management Agency, the plan shall indicate that all structures on lots in the development shall be constructed with their lowest floor, including the basement, at least one foot above the

**SECTION XVI: GENERAL PERFORMANCE STANDARDS** (continued)

100-year flood elevation, and meet all other requirements of the Floodplain Management Ordinance for the Town of Holden, Maine. Such a restriction shall be included in the deed to any lot which is included or partially included in the flood hazard area.

## SECTION XVII: ROAD DESIGN AND CONSTRUCTION STANDARDS

**SECTION USER'S GUIDE:** This section contains specific road design and construction standards applicable to all subdivisions requiring approval under this Ordinance.

### A. GENERAL REQUIREMENTS

In approving applications submitted pursuant to this Ordinance, the following requirements shall apply:

1. The proposed development shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points with respect to sight distances, intersections, schools and other traffic generators.
2. Curb cuts shall be limited to the absolute minimum number and widths necessary for safe entering and exiting. The proposed development shall not have an unreasonable adverse impact on the town road system and shall assure safe interior circulation within its site by separating pedestrian and vehicular traffic and providing adequate parking and loading areas.
3. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to all buildings and structures at all times.
4. The Board shall not approve any development plan unless proposed roads are designed in accordance with the specifications contained in this Ordinance. Pavement, but not base standards, may be waived in the Rural Resource/Residential (R-3) and Shoreland Residential (R-4) Zones, provided that the developer enters into a legally binding arrangement preventing such gravel road from becoming the responsibility of the Town without three affirmative votes of the Town Council and prior paving to Town standards. Approval of a Final Plan by the Board, shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.
5. On any public road within one-half mile of an access to the Route I-395 Connector, the development shall be designed to comply with the access management standards promulgated by the Maine Department of Transportation ([www.maine.gov/mdot](http://www.maine.gov/mdot), look under transportation planning, planning-process-programs). If the public road is not an arterial as defined in the rules, it shall be regarded as an arterial for the purposes of complying with this requirement.

### B. ROAD DESIGN STANDARDS

1. These design standards shall be met by all roads within subdivisions reviewed under this Ordinance, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
2. Roads shall be designed to discourage through traffic within residential developments except where such roads are proposed in the Town's Official Map, Land Use Plan, or Development Plan. The Planning Board may consider allowing single-lane, one-way roads provided that such one-lane roads meet emergency vehicle access requirements.
3. Where a development borders an existing narrow road (not meeting the width requirements of the standards for roads in this Ordinance), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the development, the Planning Board may require that the development plan indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." Land reserved for such purposes may not be included in computing lot area or setback requirements of this Ordinance. When such widening or realignment is indicated on the Official Map, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the Town or State.
4. Where a Major subdivision abuts or contains an existing and a proposed Town Way, no residential lot may have vehicular access directly on to the existing Town Way. This requirement shall be noted on the Plan and in the deeds of any lot with frontage on the Town Way.

**SECTION XVII: ROAD DESIGN AND CONSTRUCTION STANDARDS (continued)**

5. Any development containing ten (10) or more dwelling units or lots shall have at least two (2) road connections with existing public roads, roads shown on an Official Map, or roads on an approved development plan for which performance guarantees have been filed and accepted.
6. The following design standards apply to subdivision roads:

DESCRIPTION	DIMENSION
Minimum Right Of Way Width	50'
Minimum Pavement Width	20'
Shoulder Width	3'
Maximum Grade	8%
Minimum Centerline Radius on Curves	200'
Minimum Tangent Between Curves of Reverse Alignment	200'
Roadway Crown	1/4" /ft.
Angle of all Road Intersections	approximately 90 degrees
Maximum Grade within 75' of Intersections	3%
Minimum Curb Radii at Intersections	25'
Minimum r/o/w Radii at Intersections	10'

7. The centerline of the roadway shall be the centerline of the right-of-way.

8. **DEAD END ROADS:**

In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii: Sixty five (65) foot property line radii and fifty (50) foot outer edge of travel way radii. The Board may require the reservation of a twenty (20) foot easement in line with the dead end road to provide continuation of pedestrian traffic or utilities to the next road. The Board may also require the reservation of a fifty (50) foot or greater, easement in line with the dead end road to provide continuation of the road where future subdivision or development is possible.

9. **GRADES, INTERSECTIONS, AND SIGHT DISTANCES:**

- a. Grades of all roads shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
- b. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances below.

POSTED SPEED (MPH)	15	20	25	30	35	40	45	50	55
SIGHT DISTANCE (FT)	150	200	250	300	350	400	450	500	550

**SECTION XVII: ROAD DESIGN AND CONSTRUCTION STANDARDS (continued)**

- c. Where new road intersections or driveway curb-cuts are proposed, sight distances, as measured along the road onto which traffic will be turning, shall be based upon the posted speed limit and conform to the table above: Where necessary, corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required visibility.
  - d. Cross (four-cornered) road intersections shall be avoided insofar as possible, except as shown on the Comprehensive Plan or at other important traffic intersections. A minimum distance of two hundred (200) feet shall be maintained between center lines of side roads.
10. Where installed, curbing shall be granite or bituminous concrete and shall be installed on a thoroughly compacted gravel base of six (6) inches minimum thickness, except bituminous curbing shall be installed on the base course of the pavement. The specified pavement's width above shall be measured between the curbs.

**C. ROAD CONSTRUCTION STANDARDS**

1. MINIMUM THICKNESS OF MATERIAL AFTER COMPACTION:

ROAD MATERIALS	
AGGREGATE SUB-BASE COURSE Maximum sized stone = 4"	18"
CRUSHED AGGREGATE BASE COURSE	4"
HOT BITUMINOUS PAVEMENT	
Total Thickness	3"
Surface Course	1"
Base Course	2"

2. PREPARATION:

- a. Before any clearing has started on the right of way, the centerline and sidelines of the new road shall be staked or flagged at fifty (50) foot intervals.
- b. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the right-of-way and all the stumps shall be disposed of in an approved stump dump area.
- c. All organic materials shall be removed to a depth of two (2) feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two (2) feet below the subgrade of the roadway. On soils which have been identified by the Town's Consulting Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for aggregate sub-base below.
- d. Side slopes less than or equal to a slope of three (3) feet horizontal to one (1) foot vertical, and shall be graded, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Side Slopes greater than 3 to 1 shall be engineered using best management practices, that are acceptable to the Planning Board.
- e. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.

**SECTION XVII: ROAD DESIGN AND CONSTRUCTION STANDARDS (continued)**

**3. BASES AND PAVEMENT:**

a. Road bases shall be constructed as follows:

- 1) The Aggregate Sub-base Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three (3) inch square mesh sieve shall meet the following grading requirements:

SIEVE DESIGNATION	PERCENTAGE BY WEIGHT PASSING SQUARE MESH SIEVE
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the sub-base shall contain no particles of rock which will not pass the six (6) inch square mesh sieve.

If Geotextile Fabric is proposed, or required it shall be installed under the Sub-base Course.

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

SIEVE DESIGNATION	PERCENTAGE BY WEIGHT PASSING SQUARE MESH SIEVE
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

Aggregate for the base shall contain no particles of rock which will not pass the two (2) inch square mesh sieve.

- b. PAVEMENT JOINTS: Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even vertical joint.
- c. CURBS AND GUTTERS: Road curbs and gutters shall be installed as required by the Board. Curbs shall be vertical except when sloped curbs are specifically allowed by the Board.
- d. PAVEMENTS: Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than three quarter (3/4) inch maximum, applied in a two inch (2") minimum compacted thickness.

Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C with an aggregate size no more than one half (1/2) inch maximum, applied in a one inch (1") minimum compacted thickness.

**D. CLEANUP**

Following road construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire road right-of-way. If on-site disposal of the stumps and debris is

**SECTION XVII: ROAD DESIGN AND CONSTRUCTION STANDARDS (continued)**

proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

**E. ROAD NAMES, SIGNS, AND LIGHTING**

Roads which join and are in alignment with roads of abutting or neighboring properties shall bear the same name. Names of new roads shall not duplicate, nor bear phonetic resemblance to the names of existing roads within the Town, and shall be subject to the approval of the Board. The developer shall reimburse the Municipality for the costs of installing road name, traffic safety and control signs. Road lighting shall be installed as approved by the Board.

**F. DRIVEWAY CULVERTS**

The minimum size of any driveway culvert shall be fifteen (15) inches in diameter. The minimum and maximum lengths, respectively shall be twenty four (24) and thirty six (36) feet in length.

**G. CERTIFICATION OF CONSTRUCTION**

Upon completion of road construction a written certification signed by a professional engineer registered in the State of Maine, approved by the Planning Board, shall be submitted to the Planning Board at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of this Ordinance. "As built" plans may be required by the Planning Board.

**SECTION XVIII: BUFFER AND SCREENING STANDARDS**

**SECTION USER'S GUIDE:** This section contains specific standards relating to the buffers and screening required along property lines and Town Ways.

**A. SPECIAL BUFFER REQUIREMENTS ALONG TOWN WAYS**

In approving applications submitted pursuant to this Ordinance, the Board shall require the applicant to meet the following buffer and screening standards:

1. All areas located along Town Ways, within one hundred twenty-five (125) feet of the centerline of such ways, shall be used as buffer areas. Within these buffer areas, the following minimum plantings and buffers shall be required:

BUFFER AREA LOCATION	WIDTH	STRUCTURE	NUMBER PER 100 LINEAR FEET			
			CT	UT	SH	ET
Screening for all one story buildings	20'	N/A	3	7	30	9
Screening for all buildings of two or more stories	20'	N/A	4	12	30	18
Screening of all parking areas which are visible from Town Ways	N/A	Berm	N/A	N/A	18	N/A
Total screening, where required by Planning Board	N/A	Fencing or Berm Wall	N/A	N/A	18	N/A
LEGEND: CT = Canopy Trees UT = Under story Trees SH = Shrubs ET = Evergreen Trees						

2. Unless otherwise specifically indicated by the Board, all plant materials required by the Board under this Ordinance, shall meet the following minimum size standards:

PLANT MATERIAL TYPE	PLANTINGS IN BUFFER AREAS ABUTTING VACANT LANDS	ALL OTHER PLANTINGS
CANOPY TREES Single stem Multi-Stem Clump	1.5 inch caliper 6 feet height	2.0 inch caliper 10 feet height
UNDER STORY TREES	4 feet height	1.5 inch caliper
EVERGREEN TREES	3 feet height	5-7 feet height
SHRUBS Deciduous Evergreen	15 inches height 12 inches height	24 inches height 18 inches height

**SECTION XVIII: BUFFER AND SCREENING STANDARDS (continued)**

3. All plantings required under this Ordinance shall be of a type and species appropriate for the soil types and climatic conditions in Holden, Maine.

**B. BUFFERS AND SCREENING**

1. Buffers in the form of fences, landscaping, berms and mounds shall be required to minimize any adverse impacts or nuisance on the site or on adjacent properties.
2. Buffers shall be considered in or for the following areas and purposes:
  - a. Along property lines, to shield various uses from each other;
  - b. Along interior roads running parallel to roads exterior to the site, to prevent confusion, particularly at night;
  - c. Parking areas, garbage collection areas, and loading and unloading areas; and
  - d. To block prevailing wind patterns and to stop wind-borne debris from leaving the site.
3. Buffers shall be sufficient to shield structures and uses from the view of incompatible abutting properties and public road ways, and to otherwise prevent any nuisances.
4. Exposed storage areas, service areas, exposed machinery installation, sand and gravel extraction operations, truck-loading areas, utility buildings and structures, and areas used for the storage or collection of discarded automobiles, auto parts, metals or any other articles of salvage or refuse, and similar accessory areas and structures, shall have sufficient setbacks and screening to provide an audio/visual buffer sufficient to minimize their adverse impact on other land uses within the development site and surrounding properties, such as a stockade fence or a dense evergreen hedge six (6) feet or more in height.
5. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and shall be maintained in good condition.
6. Natural features shall be maintained wherever possible to provide a buffer between the proposed development and incompatible abutting properties and public roadways. When natural features such as topography, gullies, stands of trees, shrubbery, or rock outcrops do not exist or are insufficient to provide a buffer, other kinds of buffers shall be considered.
7. Evergreens can be used as buffers, provided they are planted in two (2) or three (3) rows of staggered plantings. The rows should be seven (7) feet apart and the evergreens planted six (6) feet on center.
8. Fencing and screening shall be durable and properly maintained at all times by the owner.
9. Fencing and screening shall be so located within the property line to allow access for maintenance on both sides without intruding upon abutting properties.
10. All buffer areas shall be maintained in a neat and sanitary condition by the owner.

**C. PLANT MATERIAL MAINTENANCE BOND REQUIRED**

Prior to issuance of any permit, the applicant shall furnish to the Town of Holden a bond, letter of credit, or other form of security approved by the Board, equal to at least twenty-five percent (25%) of the value of all plantings required under this subsection. The bond shall be binding for a minimum of three (3) years and shall be subject to the condition that required plantings be maintained in accordance with the terms of the Board's approval and in a good and healthy condition. Notwithstanding the requirement of a bond from the applicant, the owner of any premises approved

**SECTION XVIII: BUFFER AND SCREENING STANDARDS (continued)**

by the Board under any section of this Ordinance shall have a continuing obligation to maintain required plantings in accordance with the terms of the Board's approval and in a good and healthy condition.

## SECTION XIX: STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS

**SECTION USER'S GUIDE:** This section contains specific standards relating to the design and construction of storm water management systems.

### A. GENERAL PROVISIONS

In approving applications submitted pursuant to this Ordinance, the Board shall require the applicant to meet the following storm drainage design and construction standards:

1. The storm drainage system will not adversely affect neighboring properties, downstream water quality, or cause soil erosion. Whenever possible, on-site absorption and/or evaporation of run-off waters shall be utilized to minimize discharges from the site.
2. Surface water runoff shall be minimized and detained on-site if possible or practicable. If it is not practicable to detain water on site, downstream improvements to the channel may be required of the developer to prevent flooding caused by his project. The natural state of watercourses, swales, floodway or rights-of-way shall be maintained as nearly as possible. The design basis is a twenty-five (25) year storm.

### B. STORM WATER MANAGEMENT DESIGN STANDARDS

1. Adequate provision shall be made for disposal of all storm water generated within the development and any drained ground water through a management system of swales, culverts, under drain, and water courses. The storm water management system shall be designed to conduct storm water flows to existing watercourses.
2. All components of the storm water management system shall be designed to meet the criteria of a twenty-five (25) year storm based on rainfall data for the closest reporting station to Holden, Maine.
3. The minimum pipe size for any storm drainage pipe shall be fifteen (15) inches in diameter. The minimum and maximum lengths, shall be based upon common engineering practices that take into account frost protection and future maintenance. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three (3) inches, lumps of clay, or organic matter, reaching a minimum of six (6) inches below the bottom of the pipe extending to six (6) inches above the top of the pipe.
4. Catch basins shall be installed where necessary and located at the curb line.
5. Inlets and outlets shall be stabilized against soil erosion by stone rip-rap or other suitable materials to reduce storm water velocity.
6. The storm water management system shall be designed to accommodate complete watershed drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of twenty-five (25) percent for potential increases in upstream runoff.
7. Downstream drainage requirements shall be studied to determine the effect of the proposed development. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the development. The developer shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
8. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

## **SECTION XIX: STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS (continued)**

### **C. STORM DRAINAGE CONSTRUCTION STANDARDS**

#### **1. REINFORCED CONCRETE PIPE:**

Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76 (AASHTO M 170). Pipe classes shall be required to meet the soil and traffic loads with a safety factor of 1.2 on the .01 inch crack strength with a Class B bedding. Joints shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek". Perforated Concrete Pipe shall conform to the requirements of AASHTO M 175 for the appropriate diameters.

#### **2. CORRUGATED METAL PIPE:**

Corrugated Metal Pipe shall be bituminous coated meeting the requirements of AASHTO Designation M 190 Type C for iron or steel pipe or AASHTO Designation M 196 for aluminum alloy pipe for sectional dimensions and type of bituminous coating. Pipe gauge shall be as required to meet the soil and traffic loads with a deflection of not more than five (5) percent.

#### **3. ABS PIPE:**

ABS (Acrylonitrile-butadiene-styrene) composite pipe and fittings shall conform to the requirements of AASHTO M 264 and AASHTO M 265. Perforated pipe shall conform to the requirements of AASHTO M 36, Type III.

#### **4. CORRUGATED PLASTIC PIPE:**

Corrugated Plastic Pipe shall conform to the requirements of AASHTO M-252.

#### **5. MANHOLES:**

Manholes shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Bases may be cast in place 3000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed and tops shall conform to the requirements of AASHTO M 103 for carbon steel castings, AASHTO M 105, Class 30 for gray iron castings or AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

#### **6. CATCH BASINS:**

Catch Basins shall be of precast concrete truncated cone section construction meeting the requirements of ASTM Designation C 478 or precast concrete manhole block construction meeting the requirements of ASTM Designation C 139, radial type. Castings shall be sized for the particular inlet condition with the gratings perpendicular to the curb line. Bases may be cast in place 3000 psi 28 day strength concrete or may be of precast concrete, placed on a compacted foundation of uniform density. Metal frames and traps shall be set in a full mortar bed with tops which shall conform to the requirements of AASHTO M 183 (ASTM A 283, Grade B or better) for structural steel.

#### **7. DRAIN INLET ALIGNMENT:**

Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Town's consulting Engineer.

**SECTION XIX: STORM DRAINAGE DESIGN AND CONSTRUCTION STANDARDS (continued)**

8. MANHOLE PLACEMENT:

Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of four hundred (400) foot intervals.

9. CATCH BASIN AND MANHOLE MAINTENANCE:

Upon completion each catch basin or manhole shall be cleaned of all accumulation of silt, debris or foreign matter and shall be kept clean until final acceptance of the road by the Town.

## SECTION XX: REQUIREMENTS FOR CONSERVATION SUBDIVISIONS

**SECTION USER'S GUIDE:** This section sets forth the minimum requirements for conservation subdivisions. All subdivisions applications submitted to the Town of Holden Planning Board shall be conservation subdivisions.

### A. POLICY

It is the policy of the Town of Holden to require the use of conservation subdivisions in order to preserve a sense of space, provide for sustainable agriculture and forestry as well as recreational land, preserve other resources identified in the Town of Holden Comprehensive Plan, and harmonize new development with the traditional open, wooded, agricultural, rural and village landscapes of the Town.

This performance standard is intended to implement that policy by providing incentives that afford flexibility to landowners in road and lot layout and design and road frontage requirements and by allowing the Planning Board to expedite procedure and to waive or reduce certain otherwise applicable standards and provisions of this Subdivision Ordinance. These incentives are designed to encourage greater flexibility and more innovative approaches to housing and environmental design for the development of single and multi-family residential areas that will promote the most appropriate use of land and will preserve, as permanent open space, agricultural or forestry land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents.

### B. PURPOSES

To qualify for approval as a conservation subdivision, the Planning Board must find that the proposed conservation subdivision will achieve the following purposes that are applicable to its specific circumstances:

1. Long term protection and conservation of existing natural and other resources and landscapes identified in the Comprehensive Plan including but not limited to:
  - a. State-defined critical areas, and unique natural features located on the parcel to be subdivided;
  - b. Historic land use patterns and historic structures;
  - c. Points of visual access to or from water bodies, scenic vistas, and points of access to water bodies;
  - d. Contiguous stands of mature trees; or
  - e. Other significant open space areas.
2. Maintenance or establishment of compatibility with surrounding land uses and the overall rural character of the Town as envisioned by the Comprehensive Plan;
3. Provision of adequate buffers for adjoining properties where needed;
4. Contribution to Town-wide open space planning by creating a system of permanently preserved open space, both within large parcels of land and among such parcels throughout the Town, and by encouraging linkages between open space areas;
5. Conservation of land suitable or actively used for agriculture and forestry uses, particularly where the conservation subdivision borders active agricultural or forestry land or land suitable for the same;
6. Conservation of traditional land uses;

**SECTION XX: REQUIREMENTS FOR CONSERVATION SUBDIVISIONS (continued)**

7. Creation of choices in the type of environment (business or residential) and type of housing available that will be a long-term asset to the Town of Holden;
8. Construction of affordable housing;
9. Provision of recreation facilities, including active and passive recreational space, in the most suitable locations for use consistent with the other purposes of this performance standard;
10. Attainment of planned variety and coordination in the location of structures, and building forms and relationships; and
11. Avoidance of strip development along the Town's road networks.

**C. GROUPING CONTIGUOUS PARCELS**

In order to increase design flexibility, two or more contiguous parcels of land under the same or different ownership, including parcels separated by a public or private road, may be grouped together as one conservation subdivision, if the Planning Board finds that such grouping will benefit the Town and that it helps achieve the purposes set forth in Paragraph B.

**D. MAXIMUM NUMBER OF LOTS ALLOWED (see also Section XX., paragraph F)**

The maximum number of lots allowed shall be calculated in the following manner:

1. Determine the land suitable for development of the parcel according to Section XVI, General Performance Standards, Subsection F, "Land Not Suitable for Development," of the Town of Holden Subdivision Ordinance; then
2. Divide the land suitable for development by the minimum lot size required in the Zoning Ordinance to obtain the maximum number of lots allowed; then
3. Subtract the land area that would be needed for internal roads if it were not a Conservation Subdivision and recalculate the maximum allowable number of lots by:
  - a. Multiplying the required frontage in the zone by the gross number of lots determined in #2 above, divide by two (this method assumes a double-loaded street) and multiply by the 50-foot right of way. For example:  
  
If the required frontage is 300 feet  
and the gross number of lots is 10:  
  
 $300 \times 10 = 3,000$  (multiply the required frontage by the gross number of lots)  
 $3,000/2 = 1,500$  (divide the result, 3,000, by 2 to account for double-frontage lots)  
 $1,500 \times 50 = 75,000$  square feet (multiply the result, 1,500, by the frontage to get 75,000)
  - b. Subtract the resulting square footage obtained in 3.a., above, from the land suitable for development; and
  - c. Divide the revised land suitable for development figure by the lot size requirement in the zone to obtain the maximum number of lots allowable.
4. DENSITY BONUS: When the Planning Board determines that a density bonus is warranted, multiply the result obtained in 3.c by:
  - 1.15 if the proposed development will provide for one of the following (4.a. or 4.b., below), or
  - 1.20 if the proposed development will provide for both of the following (4.a. and 4.b., below), and round to the nearest whole number. A density bonus may be allowed by the Planning Board for:

**SECTION XX: REQUIREMENTS FOR CONSERVATION SUBDIVISIONS (continued)**

- a. Affordable housing acceptable to the Town that meets the standards for affordable housing contained in the current affordability index for the Town of Holden prepared by the Maine State Housing Authority, when at least 10% of the housing units in the proposed subdivision or provided by the subdivider elsewhere in town will be affordable and mechanisms acceptable to the town are proposed to ensure that such units remain affordable; and/or
  - b. Public access to usable open space provided by the developer acceptable to the Town such as, but not limited to, public access to trails, recreation areas or water bodies; or dedication of land to the Town of Holden to meet a public purpose. This provision shall not be met by offerings or dedication of land for roads, utilities and similar facilities serving the development.
5. A lot for a dwelling unit created as part of a conservation subdivision shall not be further subdivided.
  6. A lot or parcel of land created as part of a conservation subdivision that has within its bounds designated open space shall not be further subdivided unless the original approved plan shall have reserved future development of such lot, but any such further subdivision shall only be made in accordance with this performance standard.

**E. LAYOUT AND SITING STANDARDS**

In planning the location and siting of residential or business structures in a conservation subdivision, lot dimension and frontage should not be the primary considerations. Priority should be given to the preservation of the open space for its natural resource value, with human habitation and business activity located and sited on the lower valued natural resource portion of a parcel, taking into account the contours of the land and the reasonableness of slopes.

The building lots on a parcel shall be laid out and the residence and business structures shall be sited so as to maximize the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

1. On buildable land.
2. In the least suitable agricultural soils and in a manner which maximizes the useable area remaining for the designated open space use, where agricultural, forestry, or recreational, existing or future uses, are particularly sought to be preserved;
3. In locations least likely to block or interrupt scenic, historic, and traditional land use views, as seen from public roadways and great ponds;
4. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment upon agricultural soils, to provide shade in the summer, and shelter as well as solar gain in the winter, and to enable new residential development to be visually absorbed by natural landscape features;
5. In such manner that the boundaries between residential or business lots and active agricultural or forestry land are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential or business and agricultural or forestry uses;
6. In locations where buildings may be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development;
7. In locations that provide compatibility in terms of physical size, visual impact, intensity of use, proximity to other structures, and density of development with other permitted uses within the land use district;

**SECTION XX: REQUIREMENTS FOR CONSERVATION SUBDIVISIONS (continued)**

8. In locations such that diversity and originality in lot layout and individual building, street, parking layout are encouraged; and
9. So that individual lots, buildings, street and parking areas shall be designed and situated to minimize alterations of the natural site, to avoid the adverse effects of shadows, noise and traffic on the residents of the site, to conserve energy and natural resources, and to relate to surrounding properties, to improve the view from and of buildings.

**F. SPACE STANDARDS (see also Section XX., paragraph D)**

1. Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required in the land use district.
2. In R-2 and R-3 districts outside of the shoreland zone, the required minimum lot size or minimum land area per dwelling unit for the building envelope may be reduced in conservation subdivisions to no less than one-half acre. In all districts outside the shoreland zone, if the lot area is reduced, the total open space in the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the Zoning Ordinance as modified, if any, by paragraph D, above. If individual lot sizes are reduced, in no case shall the total number of lots exceed the maximum number of lots allowed in paragraph D, above.
3. Minimum road frontage requirements of the Zoning Ordinance may be waived or modified by the Planning Board provided that:
  - a. Any applicable provisions regarding roads in the Subdivision Ordinance are satisfied.
  - b. Adequate access and turnaround to and from all parcels by fire trucks, ambulances, police cars and other emergency vehicles can be ensured by private roads and /or common driveways.
4. A reduction of required setback distances other than required shoreland zoning setbacks may be allowed at the discretion of the Board to achieve the purposes of this Section.
5. The designated open space shall include at least 50% of the land suitable for development in rural areas as described in the Comprehensive Plan, and 10% in growth areas as described in the Comprehensive Plan. Any land not suitable for development that is designated as open space shall not be counted toward this 50% or 10% requirement.
6. The setbacks of all structures shall be shown on the subdivision plan.

**G. UTILITIES**

At the discretion of the Planning Board, in order to achieve the most appropriate design and layout of lots and open space, utilities, including individual wells and septic systems, may be located on designated portions of the open space, if necessary, provided the same shall not unreasonably interfere with the open space purposes to be achieved under this performance standard and for the particular parcel(s) that is the subject of the application for conservation subdivision approval.

1. The Planning Board may waive or modify the requirement for hydrogeological reviews or studies, if the applicant demonstrates that due to the specific placement of wells and septic systems:
  - a. Adequate groundwater is available at all locations proposed for individual water systems; and that
  - b. There is no reasonable likelihood that the domestic water supply for any proposed lot will exceed 10mg/l of nitrates.

## **SECTION XX: REQUIREMENTS FOR CONSERVATION SUBDIVISIONS (continued)**

The Planning Board may also waive or modify the requirement for hydrogeological reviews or studies if the development will be served by a public water system or a centralized water system.

2. If a private collection septic system is proposed for a single family or multi-family conservation subdivision, the applicant must show either that at least one (1) designated site for each lot, in the open space or on the lot, has adequate soils and land area suitable for subsurface waste disposal for each lot in accordance with the minimum standards set forth in the Maine Subsurface Wastewater Disposal Rules, and that a second designated site on the parcel has the size, location and soil characteristics, to accommodate a system similar to the one originally proposed.
3. If a private central collection system is proposed, the system shall be maintained by a homeowners association or under an agreement of the lot or unit owners in the same fashion required for maintenance of the open space by a homeowners association or the lot or unit owners in common and written evidence of said maintenance agreement shall be submitted to the Planning Board.

### **H. OPEN SPACE REQUIREMENTS**

In the review and approval of a conservation subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Subdivision Ordinance or the Zoning Ordinance.

Open space set aside in a conservation subdivision shall be permanently preserved as required by this performance standard, except as allowed under this provision for flexible open space and the substitution for and/or the addition to the same, or where open space is dedicated by a landowner under contract with the Town for a term of years as set forth below. Land set aside as permanent open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings are permitted, provided that a conservation easement or a declaration of covenants and restrictions is placed on such land pursuant to paragraph H.3 and provided that the Planning Board approves such configuration of the open space.

#### **1. OPEN SPACE USES**

On all parcels, open space uses shall be appropriate to the site. Open space shall include natural features located on the parcel(s) such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, agricultural land, forested acreage, wildlife habitat, rock outcroppings and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:

- a. On parcels that contain significant portions of land suited to agricultural production, open space shall be conserved for agriculture or other consistent open space uses such as forestry, recreation (active or passive), and resource conservation.
- b. When the principal purposes of conserving portions of the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, wildlife and plant habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.
- c. Open space areas shall be contiguous, where possible, to allow linking of open space areas throughout the Town.
- d. If the open space is to be devoted, at least in part to a productive land use, such as agriculture or forestry, the developer shall submit to the Planning Board a plan of how such use is to be fostered in the future. Such plan may include, for example, a long-term timber management plan.
- e. The Planning Board may limit the use of any open space at the time of final plan approval where the Board deems it necessary to protect adjacent properties or uses, or to protect

## SECTION XX: REQUIREMENTS FOR CONSERVATION SUBDIVISIONS (continued)

sensitive natural features or resources. A proposed change in use of open space land, other than that specified at the time of plan approval, shall be reviewed by the Planning Board as an amendment to the approved plan.

- f. Further subdivision of open space or its use for other than agriculture, forestry, recreation or conservation, except for easements for underground utilities, shall be prohibited and shall be so stated as a condition of plat approval in the Planning Board order and by deed restrictions except as provided in paragraph H.3. Structures and buildings accessory to agriculture, recreation or conservation uses may be erected on open space, subject to Planning Board approval of these provisions for conservation subdivisions.

### 2. NOTATIONS ON PLAN

Open space must be clearly labeled on the Final Plan as to its use or uses with respect to the portions of the open space that such use or uses apply, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The Plan shall clearly show that the open space land is permanently reserved for open space purposes, indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations or restrictions.

### 3. PRESERVATION IN PERPETUITY

An owner of a parcel of land may designate all or a portion of the parcel for open space use in perpetuity if the purposes set forth in paragraph B are achieved and all other requirements of this performance standard are met subject to the following conditions:

- a. A draft perpetual conservation easement, or declaration of covenants and restrictions, restricting development of the open space land must be included in the conservation subdivision application.
- b. The conservation easement may be granted to or the declarations may be for the benefit of a private party, third party or other entity, the Town, with the approval of the Town Council, or to a qualified not-for-profit conservation organization acceptable to the Planning Board.
- c. Such conservation easement or declaration of covenants and restrictions shall be reviewed and approved by the Planning Board and be required as a condition of plan approval hereunder.
- d. The Planning Board may require that such conservation easement, or declaration of covenants and restrictions, be enforceable by the Town of Holden if the Town is not the holder of the conservation easement or beneficiary of the declarations.
- e. The conservation easement or declarations shall prohibit residential, industrial, or commercial use of such open space land (except in connection with agriculture, forestry, and recreation), and shall not be amendable to permit such use.
- f. The conservation easement or declarations shall be recorded in the Penobscot County Registry of Deeds prior to or simultaneously with the filing of the conservation subdivision final plan in the Penobscot County Registry of Deeds.

### 4. OWNERSHIP OF OPEN SPACE LAND

Open space land may be held in private ownership including an appropriate third party not the applicant; or owned in common by a homeowner's association (HOA); dedicated to the Town, County or State governments or agencies; transferred to a non-profit organization such as a conservation trust acceptable to the Planning Board; or held in such other form of ownership as the Planning Board finds adequate to achieve the purposes set forth in paragraph B and under the other requirements of this Ordinance.

**SECTION XX: REQUIREMENTS FOR CONSERVATION SUBDIVISIONS (continued)**

The appropriate form of ownership shall be determined based upon the purpose of the open space reservation as stated pursuant to section paragraph H.1 above. Unless so determined, or unless deeded to the Town of Holden and accepted by the citizens of the Town at Town Meeting, common open space shall be owned in common by the owners of the lots or units in the development. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.

**5. MAINTENANCE STANDARDS**

Maintenance standards for open space land, where appropriate, shall be in accordance with other requirements of Section XXII of this Subdivision Ordinance.

## **SECTION XXI: ADDITIONAL REQUIRED IMPROVEMENTS**

**SECTION USER'S GUIDE:** This section contains specific information regarding additional site improvements required of all developments approved under this Ordinance.

The following improvements are required for all subdivisions, unless waived by the Board in accordance with provisions of this Ordinance.

### **A. MONUMENTS**

1. Iron pin or stone monuments shall be set at all road intersections and points of curvature.
2. Iron pin or stone monuments shall be set at all corners and angle points of the development boundaries where the interior angle of the subdivision boundaries is one hundred thirty five (135) degrees or less.
3. Stone monuments shall be a minimum of four (4) inches square at the top and four (4) feet in length. After they are set, drill holes, one-half (1/2) inch deep shall locate the point or points described above.
4. All other development boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable permanent monumentation including, but not limited to the following:
  - a. A granite monument;
  - b. A concrete monument;
  - c. An iron pin; or
  - d. A drill hole in ledge.

### **B. WATER SUPPLY**

1. The Board may allow the use of individual wells or a private central water supply system.
2. Dug wells shall be prohibited.
3. When a development is to be served by a central water supply system, the complete supply system, including any required fire ponds and dry hydrants, shall be installed at the expense of the subdivider.
4. If a central water supply system is provided by the developer, the location and protection of the source as well as the design, construction, and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water.
5. The applicant shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the Town granting access to the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon a finding by the Board that adequate, alternate firefighting provisions exist or will be built as part of the approved plan. When calculating the minimum water supplies needed for firefighting, generally accepted standards, including but not limited to the 1999 edition of National Fire Protection Association 1231 Water Supplies for Suburban and Rural firefighting, shall be used.

**SECTION XXI: ADDITIONAL REQUIRED IMPROVEMENTS (continued)**

**C. SEWAGE DISPOSAL**

1. The applicant shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 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 in the plan and restricted so as not to be built upon.
2. Disposal areas shall not be permitted on soils or on a lot which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

**D. SURFACE DRAINAGE**

1. Where a development is traversed by a stream, river, or surface water drainage-way, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This surface water management system shall be designed by a Registered Professional Engineer.
2. Drainage easements for existing water courses or proposed drainage ways at least thirty (30) feet wide, conforming substantially with the lines of existing natural drainage, shall be provided and indicated on the Plan.
3. The developer shall provide a statement from a qualified professional that the proposed development will not create erosion, drainage or runoff problems either in the development or in other properties. Where the peak runoff from the development onto other properties is increased either in volume or duration, easements from the abutting property owners, allowing such additional discharge shall be obtained.
4. A surface water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, meeting the standards of Section XVII, shall be submitted.

**E. WALKWAYS, TRAILS**

1. When the subdivision is within the Village Center Zone and abuts Route 1A or Route 46, or is within two thousand feet (2,000') of a school, the applicant shall install three foot (3') wide sidewalks, or pedestrian walkways/bikeways. These sidewalks or pedestrian walkways/bikeways shall be designed to enable pedestrians and bicyclists to travel safely in the general direction of Route 1A or 46, or in the general direction of other roads within two thousand feet (2,000') of a school, without entering the travel portion of the road.

## **SECTION XXII: MAINTENANCE OF COMMON OPEN SPACE AND SERVICES**

**SECTION USER'S GUIDE:** This section contains specific provisions regarding the dedication and maintenance of common open space and common services in subdivisions.

### **A. MAINTENANCE OF COMMON SPACE IN SUBDIVISIONS**

1. If any or all of the common open space are to be reserved for use by the residents, the by-laws of the proposed homeowners' association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.
2. Covenants for mandatory membership in the homeowners association setting forth the owners' right, interests, and privileges in the association and the common property, shall be reviewed by the Board and shall be included in the deed for each lot or dwelling.
3. The homeowners' association shall have the responsibility of maintaining the common property unless or until dedication is accepted by the municipality or other organization acceptable to the Board.
4. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
5. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

**SECTION XXIII: PERFORMANCE GUARANTEES**

**SECTION USER'S GUIDE:** This section contains specific provisions relating to required performance guarantees and how they will be administered.

**A. TYPES OF GUARANTEES**

With submittal of the application for Final Plan approval for any Major Subdivision, the developer shall provide one of the following performance guarantees for an amount adequate to cover the estimated construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs.

1. Either a certified check payable to the Town or a savings account or certificate of deposit all naming the Town as owner, for the establishment of an escrow account, as provided for in Section C, below;
2. A performance bond payable to the Town issued by a surety company, approved by the Town Manager and Town Attorney, as provided for in Section D, below;
3. An irrevocable letter of Credit from a financial institution establishing funding for the construction of the development, from which the Town may draw if construction is inadequate, approved by the Town Manager and Town Attorney, as provided for in Section E, below; or
4. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed, as provided for in Section F, below.

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

**B. CONTENTS OF GUARANTEE**

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

**C. ESCROW ACCOUNT**

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer, the Town shall be named as owner or co-owner, and the consent of the Town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer.

**D. 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 developer, and the procedures for collection by the Town. The bond documents shall specifically reference the subdivision for which approval is sought.

**E. 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 development and may not be used for any other project or loan.

**SECTION XXIII: PERFORMANCE GUARANTEES (continued)**

**F. CONDITIONAL AGREEMENT**

The Board, at its discretion may provide for the developer to enter into a binding agreement with the Town in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that only up to three (3) lots may be sold or built upon until either:

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

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

**G. PHASING OF DEVELOPMENT**

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots or buildings abutting that section of the proposed development's road which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. All dead end roads shall be provided with a permanent or temporary cul-de-sac. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

**H. RELEASE OF GUARANTEE**

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

**I. DEFAULT**

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

Failure to construct in accordance with approved plans and specifications shall be a violation of this ordinance and punishable pursuant to title 30-A, MRSA, Section 4452.

**J. PRIVATE ROADS**

If the Applicant intends that the proposed subdivision roads are to remain private roads, the following words shall appear on the recorded plan:

"All roads in this development shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town."

However, the Applicant's intention, and the lack of such a notation on the recorded plan, shall not be deemed to constitute, be evidence of, or create any expectation of acceptance of any road or easement by the Town Council in its capacity as the legislative body of the Town.

**SECTION XXIII: PERFORMANCE GUARANTEES (continued)**

Statement of Purpose: Section XXIII (J) is being amended to clarify that under 23 M.R.S. Section 3025, the decision of whether to accept any proposed dedication of a town way is a legislative decision for the Town Council.

## **SECTION XXIV: WAIVERS**

**SECTION USER'S GUIDE:** This section authorizes the Board, under special circumstances, to waive portions of the submission requirements, performance standards and improvements required by this Ordinance and provides that such waiver be granted only with conditions.

### **A. WAIVER OF SUBMISSION REQUIREMENTS**

Where the Board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the submission requirements, provided the public health, safety and welfare are protected and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or any Ordinance.

### **B. WAIVER OF PERFORMANCE STANDARDS**

Where the Board makes written findings of fact that there are special circumstances of a particular site proposed to be subdivided, it may waive portions of the performance standards, unless otherwise indicated in this Ordinance, to permit a more practical and economical development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or any ordinance.

### **C. WAIVERS OF REQUIRED IMPROVEMENTS**

Where the Board makes written findings of fact that due to special circumstances of a particular site proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity to the proposed subdivision or development, it may waive the requirement for such improvements, subject to appropriate conditions.

### **D. WAIVERS CONDITIONALLY GRANTED**

In granting waivers to any of the provisions of this Ordinance in accordance with subsections A, B, and C, above, the Board shall require such conditions as will assure the purposes and objectives of this Ordinance are met.

### **E. WAIVERS LIMITED**

No other waivers of the provisions of this Ordinance may be granted, except as expressly authorized in this Ordinance.

### **F. WAIVER REVOCABLE**

All waivers granted by the Planning Board under this Section of the Ordinance are revocable up to the date of Final Plan approval.

**SECTION XXV: DEFINITIONS**

**SECTION USER'S GUIDE:** This section contains specific definitions for words and phrases used in this Ordinance.

**A. CONSTRUCTION OF LANGUAGE**

In this Ordinance, certain terms and words shall be interpreted as follows:

1. The words "persons" and "applicant" includes individuals, firms, associations, corporations, organizations, and similar entities;
2. Words used or defined in one tense or form shall include other tenses or derivative forms;
3. Words in the singular number shall include the plural number and words in the plural shall include the singular number;
4. The masculine gender shall include the feminine and the feminine shall include the masculine;
5. The word "shall" is mandatory;
6. The word "may" is permissive;
7. In case of difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

**B. DEFINITIONS**

For the purpose of interpreting this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein.

**1. APPLICANT**

The assessed owner or owners of land to be subdivided or person with documented right, title, or interest in the land to be subdivided.

**2. COMPLETE APPLICATION**

An application presented to the Planning Board which includes (1) receipt for fee paid; (2) completed application form; (3) Planning Board notification stating that all other submissions required herein for that type of application have been received and are satisfactory.

**3. COMPREHENSIVE PLAN OR POLICY STATEMENT**

Any part or element of the overall plan or policy for development of the Town as defined in Title 30-A, MRSA, Section 4311, et seq.

**4. CONSERVATION SUBDIVISION**

A technique that concentrates development in one or more compact areas on the site in exchange for conserving open space and natural areas elsewhere on the site. The minimum lot sizes, setbacks and frontage requirements for the zone are relaxed in order to create open space on the site. The municipal ordinance typically permits the same amount of development that is already permitted. The key difference is that this technique requires new construction to be located on only a portion – typically half – of the parcel. This new construction should incorporate buffers, landscaping and design features to preserve the rural character of the zone in which it is located. The remaining open space is permanently protected under a conservation easement held by a land trust, the municipality itself, or under such terms as the parties may agree.

**SECTION XXV: DEFINITIONS** (continued)

**5. CONTIGUOUS LOTS**

Lots in the same ownership which adjoin at any line or point, except that lots on opposite sides of a public or private road shall be each considered a separate tract or parcel unless such road was established by the owner of land on both sides thereof.

**6. DRIVEWAY**

Driveway shall mean a private way providing 4-wheel vehicular access from a public way to not more than two lots with buildings thereon.

**7. EASEMENT**

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

**8. ENGINEER**

Municipal Engineer or consulting engineer licensed by the State of Maine.

**9. ENVIRONMENTALLY SENSITIVE AREAS**

Those significant natural, scenic, historic, and archaeological areas which have been identified and/or shown on any official Environmentally Sensitive Areas Map of the Town of Holden, Maine.

**10. FINAL PLAN**

The final drawings on which the applicant's plan of subdivision is presented to the Board or approval and which, if approved, shall be recorded at the Registry of Deeds.

**11. FRESHWATER WETLAND**

Freshwater Wetlands shall be defined as in Title 38 M.R.S.A., Sec. 480B, Natural Resources Protection Act. According to 1989 statutes, Freshwater Wetlands are defined as follows:

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

- a. Often (10) or more contiguous acres, or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream, or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres;
- b. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and
- c. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusion of land that do not conform to the criteria of this subsection.

Delineating standards shall be as per current rules and regulations of the Maine Department of Environmental Protection. Wetland mapping to be submitted as a requirement of this ordinance shall be prepared and signed by a State Certified Soil Scientist or Geologist, registered in the State of Maine.

## **SECTION XXV: DEFINITIONS (continued)**

### **12. FRONTAGE**

The linear distance between the sidelines of a lot, measured along the line that borders upon whatever right-of-way serves as legal access to the lot. For the purposes of these regulations, the following ways shall constitute legal access to a lot along which frontage may be measured:

- a. A way accepted by or established as belonging to the Town of Holden, or the State of Maine, provided access is not specifically prohibited;
- b. A way, whether dedicated to public ownership or not, as shown on an approved subdivision plan.

Frontage dimensions shall meet or exceed the minimum frontage required by the Town's Zoning Ordinance.

### **13. HIGH INTENSITY SOIL SURVEY**

A Class A soil survey, conducted by a Certified Soil Scientist and prepared according to the standards of the National Cooperative Soil Survey, resulting in a soils map in which the mapping units are single phases of soils series and the mapping units delineated are contrasting soils of one eighth (1/8) acre or less in size.

### **14. LEGISLATIVE BODY**

Town Council.

### **15. LIQUIDATION HARVESTING**

Liquidation harvesting has the same meaning as in Title 12, section 8868, subsection 6 which reads "Liquidation harvesting. "Liquidation harvesting" means the purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years."

### **16. LOT**

Any separate or distinct unit of land, structure or part of structure, whether residential or non-residential, with a clearly separate but not necessarily different, use or intended use from the lot or lots adjacent to it, with the exception of auxiliary buildings for a single-family residence, not intended for human occupancy. Included under this definition of a lot would be apartments, shopping centers, and groups of non-residential buildings with different uses, even if owned by the same person.

### **17. MEDIUM INTENSITY SOIL SURVEY**

A Class C soil survey, conducted by a Certified Soil Scientist and prepared according to the standards of the National Cooperative Soil Survey, resulting in a soils map in which the mapping units are single phases of soils series and the mapping units delineated are contrasting soils of three (3) acres or less in size.

### **18. NET ACREAGE**

The total acreage available for the subdivision or development, and shown on the proposed subdivision or development plan, minus the area for roads or access and the areas which are unsuitable for development.

**SECTION XXV: DEFINITIONS (continued)**

**19. NGVD**

National Geodetic Vertical Datum.

**20. NORMAL HIGH WATER ELEVATION OF INLAND WATERS**

Along lakes, ponds, and streams, the elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial; along streams, the highest elevation on the bank of a channel at which the water has left a definite mark.

**21. OFFICIAL MAP**

The maps 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.

**22. OFFICIAL SUBMITTAL DATE**

The date upon which the Board issues a receipt indicating that a complete application has been submitted.

**23. ONE-HUNDRED-YEAR FLOOD**

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

**24. PERSON**

Includes an individual, firm, association, partnership, trust, company, corporation, municipal or other local government entity, quasi-municipality, state agency, educational or charitable organization or institution or other legal entity.

**25. PLANNING BOARD**

The Planning Board of the Town of Holden, Maine.

**26. PLANNING BOARD ORDER**

A written decision of the Planning Board including findings of fact, conclusions of law, decisions, and conditions and/or terms of approval, if any.

**27. PRELIMINARY SUBDIVISION PLAN**

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

**28. RECENT FLOOD PLAN SOILS**

The following soil series as described and identified by the National Cooperative Soil Survey:

Alluvial	Cornish	Charles
Fryeburg	Hadley	Limerick
Lovewell	Medomak	Ondawa
Podunk	Rumney	Saco
Suncook	Sunday	Winooski

**SECTION XXV: DEFINITIONS (continued)**

**29. REPRODUCIBLE COPIES OF FINAL PLAN**

Mylars, plastic film, or other durable, permanent, stable based, transparent material upon which Final Subdivision Plans are drawn and upon which the Planning Board signs at the time of final approval.

**30. RIGHT-OF-WAY**

A street or other area over which is given legal right of passage. A public right-of-way is a way dedicated to the use of the public and accepted for ownership by the Town or other level of government.

**31. ROAD**

Public and private ways such as Town ways, public rights-of-way, and private rights-of-way.

**32. SUBDIVISION**

As defined by Title 30-A, M.R.S.A., Section 4401, as the same may be amended from time to time, except that a lot of forty (40) acres or more shall be counted as a lot.

**33. SUBDIVISION, MAJOR**

Any subdivision containing more than four (4) lots or dwelling units, or any proposed road construction.

**34. SUBDIVISION, MINOR**

Any subdivision containing not more than four (4) lots or dwelling units and with all lots abutting on an existing public way.

**35. TOWN**

Town of Holden, Maine

**36. TRACT OR PARCEL OF LAND**

All contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

**37. DWELLING UNIT**

Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.

**38. FARMLAND**

A parcel consisting of 5 or more acres of land that is:

- a. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or
- b. Used for the production of agricultural products as defined in this ordinance.

**SECTION XXV: DEFINITIONS (continued)**

**39. AGRICULTURAL PRODUCTS**

Those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.

**40. FARM**

The land, plants, animals, buildings, structures, ponds and machinery used in the commercial production of agricultural products.

**41. FARM OPERATION**

A condition or activity that occurs on a farm in connection with the commercial production of agricultural products and includes, but is not limited to, operations giving rise to noise, odors, dust, insects and fumes; operation of machinery and irrigation pumps; disposal of manure; agricultural support services; and the employment and use of labor.