

ARTICLE VII – SUBDIVISION

1. PURPOSE AND ADMINISTRATION

A. Purpose. The purpose of this Ordinance shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community.

B. Authority. This Ordinance has been prepared in accordance with the provisions of the Maine Revised Statutes Amended, Title 30-A, §§ 4401-4407 and all amendments thereto.

C. Administration

(1) The Planning Board of the Town of Wiscasset, hereinafter called the Board, shall administer this Ordinance.

(2) The provisions of this Ordinance shall pertain to all land, buildings or otherwise within the boundaries of the Town of Wiscasset, Maine.

D. Procedure. An application for a minor or major subdivision will follow at a minimum the following steps, which are further described in Article VII, Section 3.

(1) Preapplication meeting

(2) Submission of preliminary application and plan(s) with preliminary review

(3) Public hearing

(4) Submission of final application and plan(s) with final review and decision

Steps (1) through (4) each require a meeting with the Planning Board but the Board may determine that, based on the size and complexity of the subdivision and other factors, the public hearing may be held during either step (2) or (4). Therefore, the minimum number of meetings required for a subdivision shall be no less than three.

2. DEFINITIONS

See Glossary of the Town of Wiscasset Ordinances.

3. SUBDIVISION APPLICATION

A. Preapplication

(1) Procedure

(a) Before submitting a Preliminary Subdivision Plan as described in Article VII, Section 3.B, the subdivider shall submit for informal discussion a Sketch Plan and other data relative to the proposed subdivision, which may be of assistance

to the Planning Board in making its determination.

- (b) The Sketch Plan shall be submitted to the Board before said meeting at which the subdivider wishes to be heard. Ten (10) copies of the sketch plan shall be submitted ten (10) days before the meeting.
- (c) The Planning Board or its designee shall determine whether the Sketch Plan application is complete and shall not schedule the application for Planning Board review until it is found complete.
- (d) At said meeting, the Board and the subdivider shall arrange for a joint inspection of the site with the Board. This provision shall not limit the Board's authority to require additional site visits if deemed necessary.

(2) Submissions

- (a) The Sketch Plan shall show, in simple sketch form, neatly done and to scale the proposed layout of streets, lots and other features in relation to existing conditions. It is recommended that the Sketch Plan include the information listed below.
 - (1) Tax map parcel lines with tax map and lot number information.
 - (2) Streets on and adjacent to the tract with name and right-of-way width and location, if known.
 - (3) Walks and culverts.
 - (4) Approximate locations of existing utilities on and adjacent to the tract.
 - (5) Type of land use on and adjacent to the tract.
 - (6) Proposed name of the subdivision or identifying title. This name shall not duplicate or closely resemble the name of a subdivision already existing or proposed in the Town.
 - (7) The date, north point, graphic map scale, name and address of record owner and subdivider, and the names of adjoining property owners.
- (b) General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawing required above. It is recommended that this information include:
 - (1) Data on existing covenants.

- (2) Soils map from the United States Department of Agriculture Natural Resources Conservation Service. (Note that as of May, 2011 such maps are available from the NRCS web site located at <http://websoilsurvey.nrcs.usda.gov/app>.)
- (3) The name, address and phone number of the owner of the property and the applicant, if different, and the street address, map and lot of the property to be subdivided.

B. Preliminary Subdivision plan

(1) Procedure.

- (a) Within six (6) months after Sketch Plan has been submitted to the Board, the subdivider shall submit an application for the consideration of a Preliminary Subdivision Plan. Failure to do so shall require re-submission of the Sketch Plan to the Board for review. The application and all required preliminary plan documentation shall be submitted to the Town at least ten (10) days before the Board meeting at which the subdivider wishes to be heard. The Preliminary Subdivision Plan shall conform to the layout shown on the Sketch Plan plus any requirements made by the Board.
- (b) The preliminary application shall be accompanied by a fee as established in the Town Fee Schedule as revised from time to time by the Selectboard and payable by check to the Town of Wiscasset, Maine with a note indicating the specific purpose of the fee. The preliminary application shall not be placed on the agenda for a Board meeting until such fee has been paid.
- (c) If the Planning Board makes a written finding of fact that professional review of the preliminary application is required, the Board shall choose a consultant to complete such review. The applicant shall deposit into escrow an additional fee in an amount determined by the Board to cover the cost of such review. The Planning Board shall not schedule any further review of the preliminary application until such professional review fee is paid. When 75% of the escrow has been disbursed, review of the application shall cease until the applicant replenishes the escrow in an amount to be determined by the Board. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or the owner's agent.
- (d) The applicant, or a duly authorized representative, shall attend meetings of the Planning Board to present the preliminary application. Failure to attend shall result in a delay of the Board's receipt of the preliminary application or action on the application until the next regular meeting which the applicant or a representative attends. The applicant, or a duly authorized representative of the applicant, shall also attend any public hearing on the preliminary application to

present the application and address questions of the Board and the public. Failure to attend a public hearing shall result in cancellation without prejudice of the hearing. The applicant shall be required to pay all costs associated with a canceled hearing.

- (e) At its first meeting following submission of the preliminary application, the Planning Board shall review the final application and determine whether it is complete, including receipt of all fees, or, if the application is incomplete, the specific additional material needed to complete the application. The Planning Board shall review the additional material at its next regularly scheduled meeting if it is submitted by the close of business on the Monday prior to said meeting and determine whether the preliminary application is then complete.
- (f) The Preliminary Plan shall not be acted on by the Planning Board until the Board has scheduled and conducted a public hearing thereon. The public hearing shall be held within thirty (30) days after an application has been determined to be complete. Within thirty (30) days after the conclusion of the public hearing, the Board shall take action to give final approval, with or without revisions or conditions, or disapproval of such Preliminary Plan. The reason for any modification required or the grounds for disapproval shall be stated upon the records of the Board and a copy provided to the subdivider. The time period for a decision on the preliminary application may be extended by written, mutual agreement of the Board and the subdivider.

Notice of the time, place and date of such hearing shall be sent by First Class Mail by the applicant not less than ten (10) days before the hearing to the town and to owners of property within 250 feet of the properties involved. Property owners shall be those listed in the most recent tax records of the Town of Wiscasset. Applicant must show proof of mailing such as photocopy of addressed stamped envelope. Notice shall also be published by the town in a newspaper of general circulation in the Town of Wiscasset at least two times, and the first date of the publication shall be at least seven (7) days prior to the public hearing. Failure to receive notice shall not invalidate the public hearing held.

(2) Submissions for All Subdivisions

The following submissions shall be provided for all subdivisions unless the Planning Board determines by majority vote that, based on evidence provided by the applicant, that one or more submissions listed below is not applicable due to the size, location, type or other physical feature of the proposed subdivision.

- (a) Location Map. The Preliminary Plan shall be accompanied by or contain a Location Map based upon the Town's tax maps drawn graphically to scale to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area and shall include the following information:

- (1) All existing subdivisions
 - (2) All existing property lines and adjacent properties.
 - (3) The locations and designations of parks and other public spaces within 1,000 feet of the subdivision.
- (b) Preliminary Subdivision Plan. The Preliminary Subdivision Plan shall be submitted, with ten (10) copies of each map or drawing, together with ten (10) copies of any attachments required for approval.

Bearings (courses) shown on the plan shall be oriented to Grid North based upon the Maine State Plane Coordinate System in effect at the date of subdivision application, and shall be in the degree minute second format. Distances shown on the plan shall be noted as to their basis: either actual measured ground distances or on the State Plane Coordinate System. All distances shown on the plan shall be of the same basis, either grid or ground, but not mixed.

State Plane Northing and Easting coordinate values shall be shown for at least three of the monuments shown on the plan. The positional tolerance of the coordinates shown shall be no less than the precision of the boundary or subdivision survey used to prepare the plan.

Metadata about the coordinate system in the form of a citation on the plan shall show, at a minimum, the surveying methodology used to derive the coordinates, the units of measurement, and the datum and source of elevation data.

All dimensions shall be shown in feet or decimals of a foot and drawn to a scale of not more than 100 feet to the inch. All plans shall have a border of ½ inch from the edge of the paper.

The Preliminary Plan application shall also include one 11" x 17" copy of each plan. The Preliminary Plan and accompanying materials shall show:

- (1) All existing information provided as part of the Sketch Plan, as amended.
- (2) Name and address of the property owner and developer, if different.
- (3) The name, registration number and seal of the appropriate professional(s) who prepared the plan(s) and reports.
- (4) Number of acres within the proposed subdivision.
- (5) Municipal zone boundaries.
- (6) Proposed lot lines with dimensions, lot numbers, lot areas and suggested

locations of buildings and setbacks.

- (7) Sufficient data to determine readily the location, bearing and length of every street line, lot line and boundary line, and to reproduce such lines upon the ground. Approximate property lines between adjacent abutters shall be shown.
- (8) Existing and proposed easements, forested areas, perennial and intermittent watercourses and wetlands. The boundaries of any wetlands depicted on the plans shall be delineated by an appropriate qualified professional.
- (9) Contour lines at intervals of not more than two (2) feet for all portions of the property proposed to be developed. USGS contours may be acceptable if approved by the Board.
- (10) Location and size of any existing sewer and water mains and culverts on or off the property that will serve the subdivision.
- (11) Proposed connection with an existing water supply or a letter from a well driller or other suitable professional attesting to the availability of water for the subdivision, if alternative means of providing water to the subdivision is proposed.
- (12) Proposed connection with an existing sanitary sewerage system or alternative means of treatment and disposal for the proposed subdivision.
- (13) The location and results of tests to ascertain subsurface soil conditions and depths to maximum ground water level must be submitted if a private sewage disposal system is proposed. A completed HHE 200 form must be submitted with the preliminary application for multi-family subdivisions.
- (14) Typical erosion control procedures to be applied to each lot.
- (15) Preliminary designs of any utilities, bridges or culverts. State approval of such facilities may also be required.
- (16) A current boundary survey, as of the date of the application, of the property to be developed prepared by a licensed land surveyor and the location of temporary markers adequate to enable the Board to locate readily and appraise the basic layout in the field.
- (17) All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- (18) The location of all natural features or site elements to be preserved.

- (19) Certifications by the appropriate professionals that all survey and supporting information accurately reflects the true conditions existing on the proposed subdivision.
- (20) The boundaries of flood hazard areas and the 100-year flood elevation, as depicted on the FEMA Flood Insurance Rate Map, and delineated on the plan.
- (21) The location of significant resources including important wildlife wintering areas, alewives spawning areas and other important plant or wildlife habitat as identified and mapped by the Department of Inland Fisheries and Wildlife and areas with visual significance as identified in the comprehensive plan.
- (22) The location of any trail, trail system or greenbelt that crosses the property.
- (23) An owner or his authorized agent shall submit evidence that information on the location of the development has been sent to the following:

The State Historic Preservation Officer
Maine Historic Preservation Commission
which currently has an office at
55 Capitol Street
State House Station 55
Augusta, Maine 04333

The applicant shall request that the Wiscasset Planning Board be notified of any comments. The applicant shall submit to the Planning Board proof of such notification, including a copy of the letter to the State Historic Preservation Officer.

- (24) A phosphorous control plan for any portion of the subdivision within the watershed of a great pond prepared in conformance with the provisions of Article VII, Section 5.A(15). If the subdivision requires a Stormwater Permit from the Department of Environmental Protection (DEP), the Board may accept the Stormwater Permit issued by DEP as evidence that Article VII, Section 1.(19) has been satisfied and that no additional submission under this section is required.
- (25) Right, title or interest of the applicant in the property to be subdivided
- (26) Any conditions of approval required by the Board

- (27) A statement indicating that any future change or modification to any aspect of the approved plan shall be considered an amendment to the plan and shall require approval of the Board regardless when such change or modification shall take place.
- (28) A cost estimate for the construction of required improvements and demonstration of adequate financial and technical capacity consistent with the requirements of Article VII, Section 5.A.17.

(3) Additional Submissions for Major Subdivisions

The following additional submissions shall be provided for all Major Subdivisions unless the Planning Board determines by majority vote that, based on evidence provided by the applicant, additional submissions are not required or that one or more submissions listed below is not applicable due to the size, location, type or other physical feature of the proposed subdivision.

- (a) Location Map. The Location Map shall show the following additional information:
 - (1) An outline of the proposed subdivision together with its street system
 - (2) An indication of the future probable street system of the remaining portion of the tract if the Preliminary Plan submitted covers only part of the subdivider's entire holding.
- (b) Preliminary Subdivision Plan. In addition to the information listed in Section 11.3.B(1)(b), the following additional information shall be provided for major Subdivisions
 - (1) Typical cross-sections of the proposed grading for roadways, sidewalks, etc., including width, type of pavement, elevations and grades, road profiles, and location, dimensions and design details of all utilities and components of the stormwater system. All such plans shall be based on an on-ground topographic survey at two (2) foot contour interval or less. Assumed datums are not acceptable.
 - (2) A hydrogeologic assessment prepared in accordance with Article VII, Section 5.A(14) by a certified geologist or registered professional engineer experienced in hydrogeology unless the subdivision utilizes public water.
 - (3) The locations of all natural features or site elements to be preserved.
 - (4) A storm water management plan, prepared by a registered professional engineer. Such plan shall be designed so that the post-development storm water runoff does not exceed the pre-development storm water runoff for the 24-hour duration, 2-,10-, and 25-year frequency storm events. The

storm water plan shall be prepared in accordance with *Stormwater Management for Maine: Best Management Practices*, latest edition, prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The storm water plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the stormwater plan and calculations by the Knox-Lincoln Soil and Water Conservation District.

If the subdivision requires a Stormwater Permit from the Department of Environmental Protection (DEP), the Board may accept the Stormwater Permit issued by DEP as evidence that Article VII, Section 8.A(17) has been satisfied and that an additional submission required under this section is not required.

- (5) An erosion and sediment control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:
 - (i) The name, address, and telephone number of the person responsible for implementation of the plan.
 - (ii) A vicinity map showing the location of waterbodies that may be affected by erosion and sedimentation from the project.
 - (iii) Existing and proposed drainage patterns, including drainage channels that drain to surrounding waterbodies.
 - (iv) A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
 - (v) Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
 - (vi) Description of temporary and permanent erosion control practices that will be used.

- (vii) Identification of the locations of the temporary and permanent erosion control practices.
- (viii) Identification of how and where collected sediment will be disposed.
- (ix) Measures to control dust and tracking of material onto public roads.
- (x) Inspection and maintenance procedures, including schedule and frequency.

The Board may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District.

- (6) A landscaping plan.
- (7) A plan for ensuring an adequate on-site water supply for fire suppression. Such plan shall consist of extending public water to the site or, at the discretion of the Board, installation of one or more minimum 10,000 gallon underground storage tank(s), together with appurtenant piping and hydrants, designed by a registered professional engineer, or an approved building sprinkler system. The plan shall include any existing or proposed perpetual easements necessary to ensure access to fire fighting water supply or hydrants.
- (8) An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours and the sight distances for each driveway that intersects an existing or proposed public or private road in accordance with the provisions of Article X Section 14.

For subdivisions that will generate more than 200 vehicle trips per day, a traffic impact analysis prepared by a registered professional engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service on the road giving access to the subdivision and neighboring roads that may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates shall be obtained from the latest edition of "Trip Generation", published by the Institute of Transportation Engineers.

- (9) Impact assessment on groundwater quantity as described in Article VII, section 5.A(16).
- (10) A plan for summer and winter maintenance of all proposed roads by lot owners. If the roads are proposed to be accepted by the Town, the plan

shall cover that period up to the time when such roads are accepted. Such plan shall include provisions for establishing, approving and annually funding a road maintenance budget by lot owners sufficient to keep all roads in good repair. All lot owners shall be required to participate in such plan. If the proposed roads are to remain private, a homeowners association shall be established to ensure proper maintenance of the roads and any other common elements. Association documents shall be submitted to the Planning Board for approval.

C. Final Subdivision Plan

(1) Procedure

- (a) Within six (6) months after approval of the Preliminary Plan, the subdivider shall file with the Planning Board an application for approval of the Final Subdivision Plan in the form described herein. The subdivider may be granted an extension by the Board if a letter is submitted explaining the need for additional time. If the Final Plan is not submitted to the Board within six (6) months after approval of the Preliminary Plan, the Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan. All applications for Final Plan approval for subdivisions shall be accompanied by a fee payable by check to the Town of Wiscasset, Maine. (See Town Fee Schedule.) Such fee must be paid before scheduling the Final Plan for review. The application and all required final plans shall be submitted to the Town Office at least ten days before the Planning Board meeting at which the subdivider wishes to be heard.
- (b) If the proposed subdivision requires a permit under the Site Location of Development Act, the Stormwater Management Law or the Natural Resources Protection Act or is otherwise under the jurisdiction of the Maine Departments of Environmental Protection or Transportation, the final plan shall not be approved by the Board until all such approvals are obtained.
- (c) Unless individual wells serving each building site are to be used, water supply system proposals contained in the Subdivision Plan shall be approved in writing by a civil engineer registered in the State of Maine. The Board may also require the subdivider to submit the results of water quality tests as performed by the State of Maine Department of Human Services.
- (d) If a separate central sewage collection and treatment system is to be utilized, sewage disposal system proposals contained in the Subdivision Plan shall be properly endorsed and approved in writing by the State of Maine Department of Health and Human Services. Such approval shall be secured before official submission of the Final Plan.

- (e) A public hearing may be held on the Final Plans as prescribed in Article VII, Section 3.B(1)(f) concerning any changes between the preliminary and final plans.
- (f) At its first meeting following submission of the final application as described in Article VII, Section 3.C(2), the Planning Board shall review the application and determine whether it is complete, including receipt of all fees, or, if the application is incomplete, the specific additional material needed to complete the application. The Planning Board shall review the additional material at its next regularly scheduled meeting if it is submitted by the close of business on the Monday prior to said meeting and determine whether the application is now complete
- (g) Within thirty (30) days after the conclusion of the public hearing, if held, or within sixty (60) days of the date of receipt of a completed Final Plan application, the Board shall act on the Final Plan. The time period for a decision on the application may be extended by written, mutual agreement of the Board and the subdivider.
- (h) Upon completion of the requirements in Article VII, Section 3.C(1) and (2) and a finding by the Planning Board that the Final Plan is consistent with the Preliminary Plan, including any revisions or conditions imposed by the Board on the Preliminary Plan, it shall be deemed to have final approval and the plan(s) and copies shall be properly signed by a majority of the members of the Board, using black ink.
- (i) At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more phases subject to any conditions of the Plan. Such phases shall be shown on the final plan. The applicant may request that only a section of the approved Plan be filed with the Board and the Lincoln County Registry of Deeds if said section constitutes at least twenty-five (25) percent of the total number of lots contained in the approved Plan. In these circumstances, Plan approval on the remaining phases of the Plan shall remain in effect for two (2) years or a period of time mutually agreed to by the Board and the Subdivider. A note memorializing such an agreement shall be on the final plan(s).
- (j) The Final Plan shall include the following note: *“Any revision to this plan including the further division of any lots or the relocation of any lot lines shall be considered an amendment to the plan and shall require approval of the Planning Board regardless when such revision takes place.”* Failure to comply with any condition of approval revokes the town’s approval.

(2) Final Plan Submissions

The Final Plan shall be submitted with the mylar original, two reproducible mylars and ten (10) copies, of each map or drawing, together with ten (10) copies of any attachments required for approval. All maps and drawings shall be printed or reproduced in the same manner as the Preliminary Plan. The Final Plan application shall also include one 11" x 17" copy of each plan. Space shall be reserved thereon for endorsement by all appropriate agencies. No modifications to the final plan(s) at a planning board meeting will be allowed.

The final subdivision plan may also be submitted on an electronic medium, such as a CD or DVD, acceptable to the Town Planner or the designated agent of the planner. The medium will be clearly and neatly labeled with the subdivision name and date.

The medium will contain the following:

- (a) a copy of the subdivision plan in PDF form.
- (b) a copy of the subdivision plan in a graphic format such as JPEG
- (c) a copy of the subdivision plan in an AutoCad ® format. The external perimeter of the subdivision shall be a polygon on a separate layer titled "perimeter boundary". The lots in the subdivision shall also be polygons on a separate layer labeled "lot perimeters".

The Final Plan shall show:

- (a) All of the information presented on the Preliminary Plan, Location Map and any amendments thereto required by the Board.
- (b) The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearing for each street.
- (c) Lots within the subdivision numbered as prescribed by the Board, who shall seek the input of the tax assessor.
- (d) The Final Plan shall indicate the proposed landscaping program of the subdivider.
- (e) Any conditions of approval required by the Board
- (f) A statement indicating that any change or modification to any aspect of the approved plan shall be considered an amendment to the plan and shall require approval of the Board.
- (g) Written offers of cession to the Town of Wiscasset of all public open space shown on the Plan that is to be transferred to the Town and for open space, which is reserved by the developer, copies of agreements or other documents showing the manner in which it is to be maintained.

D. Recording of Final Subdivision Plan and Amendments to Previously Approved Subdivision Plan

- (1) Four paper copies of the Final Plan shall be properly signed by a majority of the members of the Board, using black ink. Two (2) paper copies of the plans shall be returned to the subdivider and one (1) signed paper copies shall be retained by the Town. One copy shall be filed by the applicant with the Lincoln County Registry of Deeds. Any Subdivision Plan not so filed or recorded within sixty (60) days of the date upon which such Plan is approved, shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed two additional periods of sixty (60) days. A record of any such extensions shall be recorded at the Lincoln County Registry of Deeds at the applicant's expense. This 60-day period shall begin the day the plan is signed by the Planning Board. Any extension of this 60-day period must be requested of the Planning Board before the first 60-day period expires.

The applicant shall provide the Code Enforcement Officer (CEO) with a receipt or a copy thereof from the Lincoln County Registry of Deeds within that time limit stating that the Plan has been filed and giving the Book and Page numbers. No building permits for an approved plan will be issued until the plan has been registered with the Lincoln County Registry of Deeds and a letter from the subdivider's surveyor has been submitted to the Town stating that all permanent monuments for all lot corners have been placed.

- (2) Before making any change, erasure, modification or revision to a final Subdivision Plan which has been approved by the Board and endorsed in writing on the plan, the plan must be resubmitted to the Board for its review and approval of the proposed modifications. A public hearing may be held concerning a subdivision amendment as prescribed in Article VII, Section 3.B(1)(f). All amended plans must be signed by the Board and recorded in the Lincoln County Registry of Deeds within sixty (60) days of the date of approval. Any amended plan not so filed or recorded within sixty (60) days of the date upon which such plan is approved shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed two additional periods of sixty (60) days. The applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Lincoln County Registry of Deeds within that time limit stating that the plan has been filed and giving the book and page numbers.

E. Public Acceptance of Streets and Recreation Areas

- (a) The approval by the Planning Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the Town of Wiscasset, Maine of any street, easement or other open space shown on such plan and a note to this effect shall be on the final plan(s).
- (b) When a park, playground or other recreation area shall have been shown on the Plan,

approval of the Plan shall not constitute an acceptance by the Town of Wiscasset of such areas. The Board shall require the Plan to be endorsed with appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Town covering future deed and title, dedication and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

4. PERFORMANCE GUARANTEES

- A. Performance Guarantee. With submittal of the application for final plan approval, the subdivider shall file with the town a performance guarantee in an amount set by the Selectboard for an amount adequate to cover the total construction costs of all required improvements. The performance guarantee shall be in the form of a certified check payable to the Town of Wiscasset, a performance bond running to the Town of Wiscasset, an irrevocable letter of credit to cover the full cost of required improvements or some other form of surety that is acceptable to the Selectboard and/or Town Manager. For the purposes of this section, required improvement shall mean all public and private roads, all drainage structures and ditches, all erosion control measures, all utilities, all landscaping and all recreation facilities. Any such bond shall be satisfactory to the Selectboard and the municipal attorney as to form, sufficiency, manner of execution and surety.
- B. Project Phasing. The Planning Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
- C. Period for Completion of Improvements. A period of one year (or such period as the Selectboard may determine appropriate, not to exceed three (3) years) shall be set forth in the bond time within which required improvements must be completed.
- D. Inspection of Required Improvements
 - (1) At least fifteen (15) days before commencing construction of required improvements, the subdivider shall notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements so that the Selectboard can cause inspection to be made to assure that all specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board of Selectboard. Inspection shall be made of all required public improvements as defined above.
 - (2) At least five (5) days before commencing construction of required improvements, the subdivider shall pay an inspection fee equal to the estimated cost of inspection

by an engineer appointed by the Town, payable by check to the Town of Wiscasset stating the purpose of the fee. No building permits shall be issued on the project and no work begun until the inspection fee has been paid.

- (3) If upon inspection of the improvement performed before the expiration date of the performance bond, the inspector finds that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, the inspector shall so report in writing to the Selectboard, Road Commissioner and Code Enforcement Officer. The Selectboard shall then notify in writing the subdivider and, if necessary, the bonding company or bank, and take all necessary steps to preserve the municipality's rights under the bond or letter of credit. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.
- (4) If at any time before or during the construction of the required improvements the applicant demonstrates to the satisfaction of the inspector that unforeseen conditions make it necessary or preferable to modify the location or design of any required improvement, the inspector may, upon approval of the Selectboard, authorize modifications, provided these modifications are minor, are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Planning Board. The inspector shall issue any authorization under this section in writing explaining the changes and reasons and shall transmit a copy of such authorization to the Code Enforcement Officer and Planning Board.
- (5) Upon completion and final inspection of all required improvements, any funds remaining in a project's inspection fee account, after all inspection fees have been paid, shall be returned to the subdivider.
- (6) The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body of the town or the owner's association, as applicable.
- (7) Release of Performance Guarantee. The performance guarantee shall not be released by the Selectboard until:
 - (a) The inspecting engineer has completed his final inspection of the project and has submitted a written report stating that all required public improvements as defined above have been completed in accordance with approved plans and specifications.
 - (b) The Selectboard and Code Enforcement Officer have examined the site, have reviewed the inspecting engineer's report and concur in writing with his findings.

- (c) Performance guarantees collected on phased work segments shall be released in the same manner as outlined above, upon the completion of each phase.

5. GENERAL REQUIREMENTS AND STANDARDS.

The following requirements and standards shall apply to all subdivisions unless the Planning Board determines that, due to the specific nature of a subdivision proposal, one or more such requirements and standards are not applicable.

A. General Requirements

- (1) Compliance with General Requirements. In reviewing applications for the subdivision of land, the Planning Board shall consider the following general requirements. In all instances, the burden of proof shall be upon the person proposing the subdivision.
- (2) Conformity with Comprehensive Plan. Any proposed subdivision shall be in conformity with the Comprehensive Plan of the Town of Wiscasset and with the provisions of all pertinent state and local codes and ordinances.
- (3) Relationship to Community Services. The Planning Board shall consider whether the subdivision will have an unreasonable effect on existing community services and facilities including, but not limited to schools, including busing, road maintenance and snow removal, police and fire protection, solid waste disposal, recreation facilities, stormwater disposal and water and sewer utilities. In making its determination, the Board may require a list of construction and maintenance items that must be borne by the municipality. The Board may also require a Community Impact Statement for the above services, including reasonable cost estimates to the town and the expected tax revenue of the subdivision.
- (4) Retention of Proposed Public Sites and Open Spaces
 - (a) Developers shall be encouraged to retain any existing trail system, which crosses the property, or to re-route the trail system to a suitable portion of the property such that the integrity and continuity of the trail is retained.
 - (b) Developers shall be encouraged to retain the integrity and continuity of any greenbelt, which crosses the property.
 - (c) The Planning Board shall consider the comments, if any, of the State Historic Preservation Officer and may require that significant archaeological or historical sites be preserved to the maximum extent possible both during construction and following completion of the development.
 - (d) Land reserved for park and/or recreational purposes shall be of a character,

configuration and location suitable for the particular use intended. If a site to be used for active recreation purposes, such as a playground or a playfield, it should be relatively level and dry and have direct access on one or more streets. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and shall have direct access on one or more streets. 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.

- (e) Ownership shall be clearly indicated for all reservations of park and playground purposes on the Final Plan and shall be clearly established in a manner satisfactory to the town attorney so as to ensure the continuation of responsibility for ownership maintenance. The land or a part of it may be deeded to the Town of Wiscasset subject to the approval of the Town.
 - (f) The Board may further require that the developer provide space for future municipal uses, in accordance with a Comprehensive Plan or policy statement, giving the Town first option on the property.
- (5) Preservation of Natural and Historic Features. The Planning Board shall require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible. A fifty (50) foot buffer strip shall be provided where the proposed subdivision abuts an existing road.
 - (6) Traffic Sight Distance. All points of access from the subdivision onto existing or proposed public or private roads shall be so designed in profile and grading and so located as to provide a minimum sight distance as specified in Article X, Section 14.
 - (7) Conformance to Shoreland Zoning. Wherever situated, in whole or in part, within 250 feet of the normal high water mark of any pond, river or other salt or fresh water body, or otherwise as shown on the Official Shoreland Map, the proposed subdivision shall conform to Article VI.
 - (8) Easements for Natural Drainage Ways. Where a subdivision is traversed by a natural watercourse, drainage way, channel or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such watercourse of such width as will assure that no flooding occurs and all storm water can be disposed of properly. Such easement or right-of-way shall be not less than thirty (30) feet in width.
 - (9) Net Residential Density. The calculation of density for all residential subdivisions

shall be based on the net residential area or acreage of the parcel as defined herein.

(10) Lots. In addition to the provisions of Article II and Article VI, lots in a subdivision shall comply with the following:

- (a) In a new subdivision, only contiguous buildable land shall be counted for purposes of calculating minimum lot size.
- (b) Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development proposed.
- (c) When lots have frontage on two or more roads, the plan and deed restrictions shall indicate vehicular access shall be located only on the less traveled way.
- (d) Side lot lines shall be perpendicular to the street to the greatest extent possible.
- (e) The ratio of lot length to width shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited.
- (f) All lots shall meet the minimum lot size requirement.

(11) Utilities

- (a) The size, type and location of public utilities, such as street lights, electricity, telephones, fire hydrants, etc. shall be approved by the Planning Board and installed in accordance with the requirements of the Board and this Ordinance.
- (b) Utilities shall be installed underground except as otherwise approved by the Board.
- (c) All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damage.

(12) Additional Requirements

- (a) Street trees, esplanades, and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses.
- (b) The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a planting screen easement at least twenty (20)

feet wide, except as may otherwise be required by the Town of Wiscasset Ordinances, between abutting properties that are so affected.

- (c) Where a tract is subdivided into lots substantially larger than the minimum size, the Planning Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in this Ordinance.
- (13) Required Improvements. The following are required improvements: monuments, street signs, streets, landscaping, water supply, sewage disposal and storm drainage, except where the Board may waive or vary such improvements in accordance with the provisions of this Ordinance.
- (14) Impact on Ground Water Quality.
- (a) When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - (1) A map showing the basic soils types.
 - (2) The depth to the water table at representative points throughout the subdivision.
 - (3) Drainage conditions throughout the subdivision.
 - (4) Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 - (5) An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision and at the subdivision boundaries. For subdivisions within the watershed of a lake, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.
 - (6) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries when available.
 - (b) Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
 - (c) No subdivision shall increase any contaminant concentration in the ground water, at any on-site well, at any lot line or at the subdivision boundary to more than the Primary Drinking Water Standards. No subdivision shall

increase any contaminant concentration in the ground water at any on-site well, at any lot line, or at the subdivision boundary to more than the Secondary Drinking Water Standards.

- (d) If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
 - (e) If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
 - (f) Subsurface waste water disposal systems and drinking water wells shall be constructed where shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.
- (15) Phosphorous Control. For subdivisions located within the watershed of a great pond, the applicant shall demonstrate that phosphorous export from construction and long term operation shall be equal to or less than that which is calculated using the methodology established by the Maine Department of Environmental Protection and described in “Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development (September, 1992)”. Relevant data for calculating phosphorus export is presented in the following table.

Per Acre Phosphorus Allocations for Great Ponds in Wiscasset

Great Pond	DDA	ANAD	AAD	GF	D	F	WQC	LOP	C	FC	P	SWT
Dresden Bog	294	0	294	0.2	59	3.1	mod-sensitive	m	1.00	3.10	0.053	15
Gardiner Pond	400	40	360	0.25	90	4.01	mod-sensitive	m	1.00	4.01	0.045	23
Nequasset Pond	845	120	725	0.25	181	7.54	mod-sensitive	h	0.75	5.66	0.031	45

- DDA Direct land drainage area in Township in acres
- ANAD Area not available for development in acres
- AAD Area available for development in acres (DDA - ANAD)
- GF Growth Factor
- D Area likely to be developed in acres (GF x AAD)
- F lbs. phosphorus allocated to towns share of watershed per ppb in lake
- WQC Water quality category
- LOP Level of Protection (h=high(coldwater fishery);m=medium)
- C Acceptable increase in lake's phosphorus concentration in ppb

	Allowable increase in annual phosphorus load to the lake
FC	(lb/year)
P	Per acre phosphorus allocation (FC/D) (lb/acre/year)
SWT	Small Watershed Threshold in acres

(16) Impact on Groundwater Quantity. The removal of more than 1000 gallons per day of groundwater or spring water as part of a residential or commercial subdivision shall require the following information:

- (a) Statement of the quantity of groundwater to be extracted, expressed as the annual total, the maximum monthly rate by month, and the maximum daily rate;
- (b) A letter from the Maine Department of Health and Human Services with review comments on the proposed subdivision if it utilizes a public non-municipal water system.
- (c) Applicants shall present a written report of a hydrogeologic investigation conducted by a certified professional geologist with demonstrated groundwater hydrology impact assessment experience and training. This report shall include the following information:
 - (i) Aquifer map. A map of the aquifer tributary to the spring(s), well(s) or excavation(s) from which water is to be extracted, in sufficient detail to support a calculation of sustained yield during a drought with a probability of one (1) in ten (10) years, as well as an estimate of any potential interaction between this aquifer and adjacent aquifers.
 - (ii) Aquifer characteristics. The results of the investigation shall establish the aquifer characteristics, the rates of draw-down and rebound, the sustainable yearly, monthly and daily extraction rates, the cone of depression which may develop about the proposed facility, and impacts on the water table in the tributary aquifer and all private or public wells within the tributary aquifer or within 1,000 feet of the proposed extraction facilities whichever is greater shall be assessed.
- (d) Performance standards
 - (i) Water table. The quantity of water to be taken from groundwater sources shall not substantially lower the groundwater table beyond the property lines, cause salt water intrusion to any existing well, cause undesirable changes in groundwater flow patterns, or cause unacceptable ground subsidence, based on the conditions of a drought with a probability of occurrence of once in ten (10) years.

- (ii) Water quality. The proposed facility shall not cause water pollution or other diminution of the quality of the aquifer from which the water is to be extracted.
 - (iii) Recharge area. The proposed facility is not within the defined aquifer recharge area of a public water supply, unless notice is given to the operator thereof and the Planning Board has considered any information supplied by the operator and finds that no adverse effect on a public water supply will result.
 - (iv) Records. The operator shall maintain records as required by the Department of Health and Human Services and make them available to the Code Enforcement Officer or a designee.
 - (v) Groundwater rights. Nothing in this procedure, and no decision by the Planning Board, shall be deemed to create groundwater rights other than those rights which the applicant may have under Maine law
- (17) Adequate financial and technical capacity.
- (a) Financial Capacity. The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation. Adequate financial capacity may be demonstrated by submission of a letter from a financial institution indicating interest in or a commitment to finance the subdivision based on a cost estimate provided by the applicant.
 - (b) Technical ability. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the state licensure or certification of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

B. Design Standards

(1) Monuments

- (a) Permanent monuments shall be set at all corners and angle points of the subdivision lots and boundaries; and at all intersections and points of curvature.

- (b) All monuments shall be constructed of a reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The monument shall clearly show the registration number of the licensed land surveyor in charge. Where the placement of a required monument at its proper location is impractical, it shall be permissible to set a reference monument close to that point.

(2) Street Signs

Streets, which join or are in alignment with streets of abutting or neighboring properties, shall bear the same name. The naming and addressing of new streets or extensions of existing streets shall comply with Article X, Section 11.

(3) Streets

- (a) All streets shall comply with the provisions of the Town of Wiscasset Ordinances.
- (b) All streets in the subdivision shall be so designed that, in the opinion of the Planning Board, they shall provide safe vehicular travel while discouraging, when desired, movement of through traffic.
- (c) The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing or planned streets, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such streets. Grades of streets shall conform as closely as possible to the original topography within the limits of these Standards.
- (d) Adequate off-street parking, suitably surfaced, shall be provided in connection with lots designed for commercial and industrial uses.
- (e) Any major subdivision abutting a public road shall be designed to provide a single point of ingress and egress from the public road. Direct access from any public road to any lot in a proposed subdivision shall be prohibited unless the Planning Board determines that physical conditions unique to the parcel justify the granting of a waiver from this requirement.

A waiver shall be granted only if the shape or physical condition of the parcel does not permit access to or creation of a street other than the existing public way.

If the Planning Board grants a waiver under this section, common access shall be utilized which will allow all proposed lots to be serviced by common curb cuts.

Street entrances onto existing state-aid or state highways in the above-described areas, and driveway or street entrances onto existing state-aid or state highways in all other areas shall be approved by the Maine Department of Transportation. Copies of such approval shall be submitted to the Planning Board at the time of final review.

- (f) Where subdivision streets are to remain private roads, the following statement shall appear on the plan to be recorded:

“Subdivision streets are private roads. The Town has no legal responsibility or legal authority to maintain private roads. In order for a private road to become a town road, it must first be certified by a licensed engineer as having been built to the current Town road standards and then successfully complete the Town's road acceptance process.”

Maintenance for private roads shall be outlined in a homeowners association or road association agreement.

- (4) **Driveway Construction.** A new driveway shall be constructed and maintained to prevent water or runoff from reaching the paved or traveled portion of the street. This standard shall not be subject to a waiver by the Planning Board or a variance by the Board of Appeals. Driveways shall conform to the provisions of the Town of Wiscasset Ordinances.
- (5) **Pedestrian Facilities.** Plans for major subdivisions shall include pedestrian facilities, such as a sidewalk or off-road pedestrian path, suited to the needs of subdivision residents unless the subdivider demonstrates to the satisfaction of the Board that environmental or physical conditions prohibit construction of such facilities. If the subdivision is located within five hundred (500) feet of an existing public sidewalk, as measured along a street right of way, and sufficient public right-of-way is available, the public sidewalk shall be extended to the subdivision at the expense of the subdivider and shall interconnect with on-site pedestrian facility. All sidewalks shall conform to the applicable provisions of the Town of Wiscasset Ordinances.
- (6) **Water Supply**
- (a) All proposed lots and/or structures in a subdivision shall be served by public water if public water is available and legally accessible within 500 feet along a public road of any subdivision boundary, including any road entrance.
- (b) Hydrants or other accepted methods of storage shall be provided as necessary to meet fire protection needs as determined by the Fire Department at the subdivider's expense. The Fire Department shall submit a letter to the Planning Board approving or disapproving the provisions for fire-fighting water supply.

- (c) If water is to be supplied by the Wiscasset Water District, approval by said district of design plans for the water service shall be required before the Board may grant preliminary approval of the subdivision and construction of such improvements shall be under the supervision of said district. All other water supply systems shall be designed, approved and installed in accordance with requirements of the Maine Department of Health and Human Services.
 - (d) Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only if it is not technically feasible to develop other groundwater sources.
 - (e) Fire fighting water supply, hydrants, storage tank or other accepted methods that are not maintained by the Town shall be maintained by the lot owners.
- (7) Sewage Disposal. In addition to the provisions of the Maine State Plumbing Code, subdivisions shall comply with the following:
- (a) All proposed lots and/or structures in a subdivision shall be served by public sewer if public sewer is available and legally accessible within 500 feet of any subdivision boundary, including any road entrance.
 - (b) If the subdivision is to be served by public sewer, the approval by the Wiscasset Sewer District of design plans for the sanitary sewer system shall be required before the Board may grant preliminary approval of the subdivision.
 - (c) The following are applicable to subdivisions that are not using public sewer.
 - (1) In no instance shall a septic disposal system be allowed in soil rated poor or very poor for such purpose by the Maine Plumbing Code.
 - (2) An application for an individual septic system shall be completed by a licensed soil scientist or site evaluator in full compliance with the requirements of the State of Maine Plumbing Code.
 - (3) Plans for Engineered Systems as defined in the Maine State Plumbing Code shall be designed by a professional civil engineer and approved by the Department of Human Services.
 - (4) Regardless of the type of subsurface disposal system proposed, each building lot in a new subdivision shall pass a soils test for an individual subsurface disposal system.
- (8) Surface Drainage
- (a) All improvements recommended in the drainage plan shall be shown on the

approved plan.

- (b) Topsoil shall be considered part of the subdivision. Except for "surplus" topsoil for roads, parking areas and building excavations, it is not to be removed from the site.
 - (c) The Planning Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision as detailed in the sedimentation and erosion plan. Except for normal thinning and landscaping and except as provided for in the Erosion and Sediment Control Plan, existing vegetation shall be left intact to prevent soil erosion.
 - (d) To prevent soil erosion of shoreline areas, tree cutting on the shoreline shall conform to the Shoreland Zoning provisions.
- (9) Certification of Construction. If a subdivision road is to be considered for town acceptance, as-built plans of proposed public roads shall be submitted to the Selectboard. Upon completion of road construction and before a vote by the Selectboard to submit a proposed public way to the legislative body, a written certification signed by a registered professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of this ordinance, the Town of Wiscasset Ordinances and any conditions of approval.
- (10) Performance Guarantees. Performance guarantees shall be as described in Article 11, Section 4.A.

6. WAIVERS AND LEGAL PROVISIONS

A. Waivers

- (1) Where the Planning Board makes written findings of fact that there are special circumstances, it may waive portions of the submission requirements, the standards, or other requirements, to permit a more practical and economical development provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan or the Town of Wiscasset Ordinances or any applicable state laws.
- (2) Where the Board makes written findings of fact that, due to special circumstances, the provision of certain required improvements is inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed road, it may waive or modify the requirement for such improvements, subject to appropriate conditions.
- (3) In granting waivers to any of these standards, the Board shall require such conditions as will assure the objectives of this ordinance are met

- (4) When the Board grants a waiver to any of the standards of this ordinance, the Final Plan shall indicate the waivers granted.

B. Enforcement

- (1) 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 or dwelling unit in a subdivision that has not been approved by the Planning Board. No plan of a subdivision of land within the boundaries of the Town of Wiscasset which would constitute a subdivision as defined herein shall hereafter be filed or recorded in the Lincoln County Registry of Deeds until a Final Plan thereof shall have been approved by the Board in accordance with all of the requirements, design standards and construction specifications set forth elsewhere in this Ordinance, nor until such approval shall have been entered on such Final Plan by the Board. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Lincoln County Registry of Deeds.
- (2) Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this section shall be punished in accordance with the provisions of Title 30-A M.R.S.A. §4452 for each such conveyance, offering or agreement. The Town of Wiscasset may institute proceedings to enjoin the violation of this section.
- (3) No public utility of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.
- (4) Creating a subdivision, grading or construction of roads, grading of land or lots, or construction of buildings without Board approval is a violation of law until such time as a Final Plan of such subdivision shall have been duly prepared, submitted, approved and endorsed as provided in this Ordinance, and until the original copy of the Final Plan so approved and endorsed has been duly recorded in the Lincoln County Registry of Deeds.
- (5) The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.
- (6) An appeal of any order, relief or denial made by the Planning Board may be referred by any party to the Board of Appeals. Pursuant to Article I.

7. OPEN SPACE SUBDIVISIONS

A. Policy

It is the policy of the Town of Wiscasset to encourage the use of Open Space Subdivisions in order to preserve a sense of space, provide for agriculture and forestry as

well as recreational land, preserve other resources identified in the Town of Wiscasset Comprehensive Plan, and harmonize new development with the traditional open, wooded, agricultural and village landscapes of the Town.

This Design Guideline 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 procedures and to waive or reduce certain otherwise applicable standards and provisions of this Article and Article VI, Zoning, if such landowners commit to the permanent preservation of important Open Space Resources. These incentives are designed to encourage greater flexibility and more innovative approaches to housing and environmental design 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 as a conservation open space subdivision, the Planning Board must find that the subdivision will achieve all of 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 and the Zoning Ordinance 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;
2. Maintenance or establishment of compatibility with surrounding land uses and the overall rural character of the Town as defined 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 open space subdivision borders active agricultural or forestry land or land suitable for the same;
6. Conservation of traditional land uses;
 7. Creation of choices in the type of residential environment and type of housing available that will be a long-term asset to Wiscasset;
 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; and
 10. Attainment of planned variety and coordination in the location of structures, architectural styles, and building forms and relationships.

An Open Space Subdivision achieves the purposes of this guideline reducing the lot size, frontage and setback requirements and clustering housing and uses in those areas where they have the least impact on identified environmental, agricultural and other open space resources. These resources are then permanently preserved by the use of covenants and restrictions or conservation easements that run with the land. The cluster principle can be applied to subdivisions of any size.

C. Planning Board Review

The Planning Board shall review the application in accordance with Title 30-A, M.R.S.A. Section 4404 and this Ordinance as modified by the provisions of this Section.

(1) Pre-application Procedure

An individual shall apply for approval of an open-space subdivision as part of a pre-application conference. The applicant shall submit a pre-application sketch plan that shows, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which does not have to be engineered, must be to scale and should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development, such as steep slopes, wet areas, water bodies, potential views to and from the site, existing structures and vegetative cover.

(2) Application Procedure

Required Plans: The submissions for an Open Space Subdivision shall include all Plans and materials required for a conventional Subdivision.

(3) General Requirements

In Planning Board review and approval of an Open Space Subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this ordinance.

a. Use and District Requirements

- (1) All Open Space Subdivisions shall meet the use standards of the Districts in which they are located.
- (2) Allowable Density. To determine the maximum number of lots or dwelling units permitted, the net residential acreage of the project parcel is divided by the minimum lot size requirement in the District.

(4) Layout and Siting Standards

In planning the location and siting of residential structures in an Open Space Subdivision, priority should be given to the preservation of the open space for its natural resource value with human habitation 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 residential structures shall be sited according to the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site:

- a. 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;
- b. 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;
- c. In such manner that the boundaries between residential lots and active agricultural or forestry lands are well buffered by vegetation, topography, roads or other barriers to minimize potential conflict between residential and agricultural or forestry uses;
- d. 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;

- e. 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 District;
- f. In locations such that diversity and originality in lot layout and individual building, street, parking layout is encouraged; and
- g. 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, so as to improve the view from and of buildings.

(5) Space Standards

- a. Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required in the District.
- b. Distances between residential structures shall be a minimum of the height of the tallest adjacent structure.
- c. The required maximum lot size or maximum land area per dwelling unit for the building envelope shall be one (1) acre.
- d. Minimum road frontage requirements may be waived or modified by the Planning Board provided that:
 - (1) Any applicable provisions regarding roads in Article VII, Section 7.C(7) are satisfied; and
 - (2) 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;
 - (3) A reduction of required setback distances may be allowed at the discretion of the Board, based upon the public benefits to be achieved from the design provided that the front and rear setbacks shall be no less than twenty-five (25) feet or that required for the applicable Zoning District, whichever shall be less. For the perimeter of a multi-family open space development, overall development setback shall not be reduced below the minimum front, side and rear setbacks required in the Zoning District unless the Planning Board determines a more effective design of the project can better accomplish the purposes of this performance standard.
 - (4) No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.

(6) 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 they shall not unreasonably interfere with the open space purposes or uses to be achieved under this Section and for the particular parcel(s) that is the subject to the application for a Open Space Subdivision.

- a. All structures requiring plumbing in the development shall be connected to a public sewage system, individual septic systems or a private central collection and treatment system in accordance with the minimum standards set forth in the State of Maine Subsurface Wastewater Disposal Rules. Proposed systems shall in no way endanger ground water supplies which are currently being utilized as a water source for any existing development or which are to be utilized as a common or individual water supply for the proposed development.
- b. If a private central collection system is proposed, the applicant must show either that at least one designated site for each lot, in the open space or on the lot, has adequate soils and land area suitable for subsurface wastewater disposal for each lot in accordance with the minimum standards set forth in the State of Maine Subsurface Wastewater Disposal Rules, or that a second site on the parcel has the size, location and soil characteristics, to accommodate a system similar to the one originally proposed. In the case of the use of chambers, there shall be designed an excess capacity of thirty (30) percent.
- c. 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. The Planning Board may require the developer and homeowners association to retain a qualified third party to inspect and approve the system from time to time and furnish a copy of his report to the Code Enforcement Officer.

(7) Roads

The Planning Board shall require private roads and common driveways to comply with the design standards set forth in Article X, Section 11 except as provided in Article VII, Section 7C(7)d below.

- a. The applicant shall submit to the Planning Board as part of the application for approval a plan prepared by a registered professional engineers showing the location and drainage characteristics, dimensions and grade of roads and common driveways as well as specifications setting forth their proposed composition.

- b. The Subdivision Plan shall show the road clearly labeled "private road" and a condition of approval shall state the following:

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners. Roads proposed to be accepted and maintained by the Town shall first meet all municipal street design and construction standards and, in addition, then shall be proposed for acceptance by the Town Meeting. Such roads shall not be public roads until and unless they are accepted by the Town Meeting.”

- c. Whenever possible and as far as practicable, the roads and common driveways shall:

- (1) follow natural contours in an effort to limit phosphorous export;
- (2) be limited in width, curvilinear in design, and keeping within the rural character of the Town;
- (3) turn away drainage from the front access to public roads, and shall use sufficiently dimensioned culverts to accommodate predevelopment and post-development drainage and flows, where necessary.

- d. Travel ways and shoulders of roads and common driveways within open space subdivisions shall meet the following minimums:

- (1) Common driveways serving 3 or fewer dwelling units: 12 foot travel way.
- (2) Roads serving 4 units: 16-foot travel way and 3-foot shoulders.
- (3) Roads serving 5 to 10 units: 16-foot paved travel way and 3-foot shoulders.
- (4) Roads serving 11 to 50 units: 20 foot paved travel way and 3 foot shoulders.

D. Open Space Requirements

In Planning Board review and approval of an Open Space Subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this ordinance.

Open space set aside in an Open Space Subdivision shall be permanently preserved as required by this Section. 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 (1) 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 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 should include natural features located on the parcel(s) such as, but not limited to, stream beds, 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 agriculture, open space shall be preserved for agriculture or other compatible open space uses such as forestry, recreation (active or passive) and resource conservation;
- b. When the principal purpose of preserving 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 such as trails for walking and cross country skiing;
- c. Open space areas shall be contiguous, where possible, to allow linking of open space areas throughout the Town;
- d. The use of any open space may be limited by the Planning Board at the time of Final Plan approval where the Board deems it necessary to protect adjacent properties or uses, or to protect sensitive natural features or resources. A proposed change in use of open space land, other than that specified at the time of Final Plan approval, shall be reviewed by the Planning Board as an amendment to the approved Plan;
- e. 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 by deed restrictions except as provided in below:
 - (1) Notations on Plan. Open space shall 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, is subject to a reservation for future development, including those provisions allowed under Subsection f. below, and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations or restrictions. All notes and conditions of approval shall appear on the Final Plan or on a separate page appended to the Final Plan. All such pages shall be signed and recorded with the Final Plan.
- f. Preservation in Perpetuity. An owner of a parcel of land shall designate all or portions of the parcel for open space use in perpetuity if the applicable purposes set forth in Article VII, Section 7.B are achieved and all other requirements of this Article VII, Section 7 are met subject to the following conditions:

- (1) A perpetual conservation easement, or declaration of covenants and restrictions, restricting development of the open space land must be incorporated in the Open Space Plan;
- (2) 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 Municipal Officers, and acceptance at Town Meeting or to a qualified not-for-profit conservation organization acceptable to the Planning Board;
- (3) 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;
- (4) The Planning Board may require that such conservation easement, or declaration of covenants and restrictions, be enforceable by the Town of Wiscasset if the Town is not the holder of the conservation easement or beneficiary of the declarations;
- (5) 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; and
- (6) The conservation easement or declaration shall be recorded in Registry of Deeds prior to or simultaneously with the filing of the Open Space Subdivision Final Plan in the Lincoln County Registry of Deeds.

8. REVIEW CRITERIA

In approving subdivisions within the Town of Wiscasset, Maine, the Planning Board shall evaluate the proposed subdivision using the following criteria:

- (1) Pollution. Will not result in undue water or air pollution. In making this determination, the Planning Board shall at minimum consider:
 - (a) The elevation of the land and its relation to flood plains;
 - (b) The nature of soils and subsoils and their ability to adequately support waste disposal;
 - (c) The slope of the land and its effects on effluents;
 - (d) The availability of streams for disposal of effluents; and
 - (e) The applicable State and local health and water resources regulations.
- (2) Sufficient water. Has sufficient water available for the reasonably foreseeable needs of the subdivision;

- (3) Municipal water supply. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- (4) Erosion. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- (5) Traffic. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section
- (6) Sewage disposal. Will provide for adequate solid and sewage waste disposal;
- (7) Municipal solid waste disposal. Will not cause an unreasonable burden on the ability of the Town of Wiscasset to dispose of solid waste and sewage with respect to the use of municipal facilities existing or proposed;
- (8) Municipal & governmental services. Will not place an unreasonable burden on the ability of the Town of Wiscasset to provide municipal or governmental services;
- (9) Aesthetic, cultural and natural values. Will not have an undue adverse effect on the scenic or natural beauty of the area as defined in the comprehensive plan, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town of Wiscasset or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- (10) Conformity with local ordinances and plans. Is in conformance with the subdivision ordinance, comprehensive plan, zoning ordinance, floodplain management ordinance or other duly adopted Town of Wiscasset ordinance. In making this determination, the municipal review authority may interpret these ordinances and plans;
- (11) Financial & technical capacity. The subdivider has adequate financial and technical capacity to satisfy these review criteria;
- (12) Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in the Mandatory Shoreland Zoning, Act Title 38, chapter 3, subchapter 1, article 2-B, the proposed subdivision will not adversely affect the quality of water or unreasonably affect the shoreline of that body of water.
- (13) Groundwater. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater and aquifers;

- (14) Flood areas. If the subdivision, or any part of it, is in a flood-prone area based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, the subdivider shall determine and verify 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;
- (15) Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps or site plans submitted as part of the application, regardless of the size of these wetlands;
- (16) River, stream or brook. Any river, stream, or brook, as defined in the Natural Resources Protection Act, Title 38, Section 480-B, within or abutting the subdivision has been identified on any maps or site plans submitted as part of the application;
- (17) Storm water. The subdivision will provide for adequate storm water management;
- (18) Spaghetti lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook or great pond as 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;
- (19) Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorous concentration during the construction phase and life of the proposed subdivision;
- (20) Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- (21) 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 the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority shall determine before 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. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

- (22) Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application.
- (23) Access to direct sunlight. The municipal reviewing authority may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and set-back requirements or other permissible forms of land use controls.