

Draft

*Price \$5.00*

**TOWN OF WATERBORO**

*Subdivision Ordinance*

Adopted August 9, 1972  
Amended to June 23, 1988  
Amended to March 11, 1989  
Amended to July 18, 1989  
Amended to April 26, 2003  
Amended to January 17, 2012  
Amended to May 13, 2016  
Amended to XXXXX 2020

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## **ARTICLE I AUTHORITY**

Under statutory power and authority granted to Boards in accordance with 30 M.R.S.A., Chapter 454, § 4401, the Waterboro Planning Board, hereinafter called the Board, in an official meeting convened on August 9, 1972, adopted Land Subdivision Regulations of the Board of the Town of Waterboro, Maine. This Ordinance has subsequently been amended pursuant to 30-A M.R.S.A., § 4401 et seq.

## **ARTICLE II ENFORCEMENT**

No person, firm, corporation, or other legal entity may sell, lease, or convey for consideration, offer or agree to sell, lease or convey for consideration any land in a subdivision which has not been approved by the Board or other reviewing authority of Waterboro and recorded by the Register of Deeds of York County in Alfred. No subdivision plan or plat shall be recorded by the said Register which is not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility, water district, sanitary district, or any utility company of any kind shall install service to any lot in a subdivision for which a plan has not been approved.

Any person, firm, corporation, or other legal entity who sells, leases, or conveys for consideration, offers, or agrees to sell, lease, or convey for consideration any land in a subdivision which has not been approved as required by this regulation shall be in violation of this Ordinance and may be subject to enforcement pursuant to 30-A M.R.S.A., § 4452.

## **ARTICLE III PURPOSE AND GUIDELINES**

To exert a beneficial influence upon the use of land areas, water and other natural resources of Waterboro in such a manner as to safeguard the health, safety and welfare for which community services, when required, can be most economically installed and efficiently utilized, thereby presenting the image of a town which has a forward-looking government responsive to expansion, but only consistent with the above ideals and realistic and reasonable concern for the environment.

To this end, when reviewing and approving subdivisions in the Town of Waterboro, Maine, the Board will consider the following criteria and, before granting approval, will determine that the proposed subdivision:

- A. Will not result in undue water or air pollution. In making this determination it will at least consider: The elevation of the land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect upon effluents; and the applicable State and local health and water resource regulations.
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision.
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be utilized.
- D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads, existing or proposed. For those subdivisions that require driveways or entrances onto a state or state aid highway located outside of the urban compact area, the Maine Department of Transportation has provided documentations indicating that the driveways or entrances conform to 23 M.R.S.A., § 704, and any rules adopted under that statute.
- F. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are to be utilized.
- G. Will not cause an unreasonable burden on the ability of the Town to dispose of solid waste, if municipal services are to be utilized.
- H. Will not have an undue adverse effect upon the scenic or natural beauty of the area, aesthetics, historical sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.
- I. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any. In making this determination, the Board may interpret these ordinances and plans.
- J. The Applicant has adequate financial and technical capacity to meet the standards and requirements of this Ordinance.
- K. Whenever situated, in whole or in part, within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in 38 M.R.S.A., Chapter 3, Subchapter I, Article 2-B, the subdivision will not adversely affect the water quality or undesirably affect the shoreline of such body of water.
  - 1. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet, which is consistent with the Saco River Corridor Commission.

- a. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
  - b. The frontage and setback provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under the Town's shoreland zoning, adopted pursuant to 38 M.R.S.A., Chapter 3, Subchapter I, Article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of 30-A M.R.S.A., § 4401, Subsection 1, on September 23, 1983.
- L. Will not result in an unreasonable burden upon school facilities.
  - M. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
  - N. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the Applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the Applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.
  - O. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.
  - P. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.
  - Q. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond, or coastal wetland as these features are defined in 38 M.R.S.A., § 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1.
  - R. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.
  - S. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

- T. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 M.R.S.A., § 8869, §§14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Board may request technical assistance from the Maine Department of Agriculture, Conservation and Forestry, and Bureau of Forestry, to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to 32 M.R.S.A., Chapter 76. If the Board 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 Board within 30 days of receipt of the Board's request. If the Bureau notifies the Board that the Bureau will not provide assistance, the Board may require a subdivision Applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in, 12 M.R.S.A., §8868, §§ 6 and "parcel" means a contiguous area within one municipality, township, or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to 12 M.R.S.A., § 8869, §§ 14.

#### **ARTICLE IV DEFINITIONS**

- A. *Abutter*: One whose property is within 500' to the perimeter of the tract developed or proposed for development.
- B. *Comprehensive Plan*: Any part or element of the overall plan for the development of the Town as defined in 30-A M.R.S.A. § 4301.
- C. *Construction Drawings*: Drawings showing the location, profile, grades, size, and type of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground telephone ducts or cables, pavement, street cross sections, and miscellaneous structures etc.
- D. *Easement*: The recorded authorization of a property owner for the use, by another, for a specified purpose, of any designated part of his property.
- E. *Final Subdivision Plan*: The final drawings, on which the Applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be filed for recording with the York County Register of Deeds.
- F. *Groundwater*: The water beneath the surface of the ground: the source of water in springs and wells.

- G. *Legislative Body:* Board of Selectmen.
- H. *Official Submittal Date:* The date of submission of a Preliminary Subdivision Plan or a Final Subdivision Plan shall be the date of the meeting at which time the application is found complete by the Planning Board.
- I. *Person:* Any firm, individual, association, organization, partnership, trust, company, or corporation.
- J. *Board:* The Planning Board of the Town of Waterboro, Maine, created under 30-A M.R.S.A., §§4401-4408; or 30 M.R.S.A., Chapter 201-A, § 1917.
- K. *Preliminary Subdivision Plan:* The preliminary formal drawings of the subdivision to be submitted to the Board for its review and consideration.
- L. *Sketch Plan:* An informal plat of the proposed subdivision indicating approximate lot boundaries, street location, community wells, and sewage disposal areas (if any) and entrances to existing roads.
- M. *Street:* Includes alleys, avenues, boulevards, highways, roads, streets, and any other pedestrian or vehicular right-of-ways.
- N. *Subdivision:* See 30-A M.R.S.A., § 4401.
- O. *Tract or Parcel:* A tract or parcel of land is defined as all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides of the road after September 22, 1971.

## **ARTICLE V PREAPPLICATION**

### **5.1 PROCEDURE**

- 5.1.1 An Applicant shall schedule an appointment with the Planning Board staff to submit a sketch plan. Sketch Plan applications shall be submitted at least 14 days prior to the Applicants' meeting with the Board. The Board will not take any formal action on the plan at that meeting. The intent of the meeting is to introduce the proposed subdivision and discuss with the Applicant any potential issues that the board may want to address during the Preliminary and Final review stages. A sketch plan meeting is not considered a substantive review under the provisions of 1 M.R.S.A., § 302.

- 5.1.2 At the time of the pre-application inspection the Applicant shall submit for informal discussion a sketch plan relative to the proposed subdivision, which may be of assistance to the Board in making its determination. The Sketch Plan shall be drawn to a scale of not over 200 ft. to one inch showing the proposed layout of the lots, streets, drainage, reserved land for community or public use, ledge outcroppings, historical preserves, trees of unusual size or interest, etc., including the acreage range of lots.

At the Sketch Plan stage it will be determined by the Board whether the project will be developed as a conventional subdivision or a cluster development. All cluster development designs are subject to the performance standards set forth in Section 8 of the Waterboro Zoning Ordinance.

## **ARTICLE VI PRELIMINARY PLAN**

### **6.1 PROCEDURE**

The Board will not accept a Preliminary Plan for review until the pre-application (sketch) procedure has been completed.

- 6.1.1 Within 6 months of meeting with the Board with a sketch plan, the Applicant shall submit the Preliminary Plan for consideration and recommendations. Failure to do so shall require resubmission of the Sketch Plan. The Preliminary Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board at the time of the discussion of the Sketch Plan.
- 6.1.2 The Applicant or his/her duly authorized representative shall, at least 14 days prior to his/her scheduled meeting before the Board, submit a preliminary plan application. The Applicant or the Applicant's duly authorized representative shall attend his/her scheduled meeting of the Board to discuss the Preliminary Plan. If the Preliminary Plan Application is not submitted 14 days prior to the Applicant's meeting, the Board will not take action on the plan at that meeting. The Applicant will have to schedule another meeting. The Board shall take up to 30 days to find the application complete. At the time of submission, the Applicant shall notify all abutters and any other entities that may require notification and certify in writing as part of the application that this has been completed.
- 6.1.3 Within sixty (60) days after formal submission of a completed Preliminary Plan Application, the Board shall take action to give preliminary approval, with or without modification required, or the grounds for disapproval shall be stated in the minutes of the Board and conveyed to the Applicant in writing. Prior to approval of the Preliminary Plan, the Board may hold a public hearing.
- 6.1.4 When granting preliminary approval to a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
1. The specific changes which are required in the Final Plan.

2. The standards for which waivers have been requested and which the Board determines may be waived without jeopardy to the intent and purposes of this ordinance. See Article XI for waiver requirements and the application form for waiver request sheets.
- 6.1.5 Approval of a preliminary plan shall not constitute approval of the Final Plan, but rather, it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval by the Board and for recording upon fulfillment of the requirements of these regulations and the conditions of the preliminary approval, if any.
- 6.1.6 Within seven (7) days after submitting the Preliminary Plan, the Applicant shall notify, by certified mail, all property owners within five hundred (500) feet of the perimeter of the proposed development. The Applicant shall, at the same time, send a copy of the notice and list of those notified to the Board for verification of abutter notification. A copy of the standard notification letter will be provided to all Applicants with application materials.
- 6.1.7 When professional services are required to evaluate a proposal, design or assessment, the expense of these reviews shall be borne by the Applicant. The cost shall be paid to the Town of Waterboro prior to the release of the signed subdivision plat.

## **6.2 PRELIMINARY PLAN**

- 6.2.1 The Preliminary Plan shall be submitted in fifteen (15) copies of one or more maps or drawings which may be printed or reproduced on size 24 inch by 36 inch paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of 1 inch equals not more than sixty (60) feet, and showing or accompanied by the following information:
  1. The proposed subdivision name or identifying title, the name of the town and state, the date, the graphic scale, and the true North arrow displayed in a conspicuous place.
  2. Name and address of the owner of record, Applicant, soil scientist, designer and/or engineer and land surveyor.
  3. Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, watercourses and other essential existing physical features.
  4. The names of all subdivisions immediately adjacent and the names of owners of record of other adjacent parcels, not subdivided, including those subdivisions and parcels directly across abutting streets, streams and right-of-ways.
  5. The provisions of the Zoning Ordinance applicable to the area to be subdivided and any zoning district boundaries affecting the proposed subdivision.
  6. The location and size of any proposed or existing, water mains, culverts or drains, and existing wetlands, brooks, perpetual springs and natural drainage ditches.
  7. Locations, names, and present widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public open spaces.

8. The width and location of any streets or other public ways or places shown upon the Official Map and the Comprehensive Plan, if any, within the area to be subdivided, and the width, location, grades, and street profiles of all streets or other public ways proposed by the Applicant.
9. Contour lines at such intervals as the Board may require.
10. A log of on-site soil investigations by a registered soil scientist, made in accordance with the requirements of the State Plumbing Code, for two (2) test pits per lot separated by a minimum of 50 feet, the location of which to be clearly delineated on both the Preliminary and Final Plans also indicating the 100 foot separation between the test pit locations and any proposed well locations..
11. Deed description of and plan of perimeter survey of tract to be developed, made and certified by a registered land surveyor and tied to established permanent reference points, reference to lot number or numbers as shown on the Town Tax Maps, also book and page in and on which the deed for the tract is recorded.
12. Connection with existing public or private community water supply.
13. Connection with existing public or private community sanitary sewerage system.
14. Provisions for collecting and discharging storm drainage, in the form of a drainage plan and calculations.
15. Preliminary designs of any bridges and size of which are proposed, showing their location.
16. Proposed lot lines with approximate dimensions, lot numbers or names, approximate lot acreage, and suggested location of buildings. Each lot shall also have E911 addressing approved by the town's addressing officer, along with any proposed street names approved by the towns review agent in charge.
17. Location of temporary boundary markers conspicuous enough to enable the Board to readily locate and envision, while in the field,
18. All parcels of land proposed to be dedicated to public or community use and with a statement of the conditions of such dedication.
19. Proposed use of any part of the original tract which is not to be included in the subdivision.
20. The location of all natural features or site elements to be preserved.
21. A soil erosion and sediment control plan.
22. A statement relative to the schedule of construction.

23. A statement relative to the amenities or services and future responsibilities therefore.

24. A hydrogeological analysis

When requested or required by the Board the Applicant shall provide an analysis as outlined below. The Applicant may request a waiver consistent with Article XI if the Applicant can demonstrate that a waiver is justified upon review and approval by the board.

A hydrogeologic impact study prepared by a State of Maine licensed geologist or a licensed professional engineer with experience in hydrogeology shall be provided for all subdivisions utilizing on-site septic disposal systems. This study shall contain, at a minimum, the following components:

- A. 1. A high intensity soil survey in accordance with the current standards set by the Maine Association of Professional Soil Scientists. The map shall include documentation of the different drainage classifications.
2. Groundwater levels and flow rates through the site and the aquifer, if one is determined to exist, should be determined.
  - a. Monitoring wells should be installed, using an acknowledged procedure, to insure proper data collection.
  - b. The number of monitoring wells could vary, depending upon size and geology, but a minimum of three, laid out in a plan triangle would be needed to provide the necessary data to triangulate the levels and flows.
  - c. Ground water levels shall be surveyed to a common datum on site.
  - d. Groundwater flow rates should be calculated by using groundwater gradients and soil permeability.
  - e. Monitoring wells should remain in place and in a useable condition for continued use into the future. The Applicant should provide means to insure the protection of these wells.
    1. An analysis of surface drainage conditions and their relationship to offsite conditions.
    2. Data on existing groundwater quality for the site should be provided. Collection of this data can either be provided by monitoring wells within the proposed subdivision or by existing wells on abutting properties, provided that the data collected from those wells would represent the groundwater on the site to be used for drinking water.
3. A calculation of average nitrate nitrogen levels on-site after development and calculation of nitrate nitrogen levels at the down gradient property line(s). These calculations should be done under normal rainfall and draught conditions.

4. The sites recommended for the individual subsurface waste water disposal systems and the drinking water wells in the subdivision should be placed on the subdivision plan.
- B. No development shall increase nitrate nitrogen concentrations at the property line of the development in excess of (5mg/L).
  - C. On site drinking water wells shall be located in areas where it has been determined that the nitrate nitrogen concentrations are at or below (5mg/L).
  - D. If groundwater contains contaminants in excess of the primary drinking water standards, and the subdivision is to be served by on-site groundwater supplies, the Applicant shall demonstrate how water quality will be improved or treated and the Applicant shall make a note on the plan and deed that the situation exists.
  - E. Subsurface waste water disposal systems and drinking water wells shall be constructed in the locations shown on the map submitted with the assessment. If construction standards for drinking water wells and subsurface waste water disposal systems are recommended in the assessment those standards shall be included as a note on the final plan, and as restrictions in the deeds for the effected lots.
- 6.2.2 Land covered by proposed subdivision shall be so marked in the field that the Board may readily observe locations of proposed roads and lot comers while making its on-site inspection.

## **ARTICLE VII FINAL PLAN**

### **7.1 PROCEDURE**

- 7.1.1 The Applicant shall, within ninety (90) days after the approval of the Preliminary Plan, file with the Board an application and fee for approval of the Final Subdivision Plan in the form described herein. If the Final Plan is not submitted to the Board within this time the Board may, without prejudice, refuse to act upon it for an additional ninety days. The Applicant shall, at least 14 days prior to his/her scheduled meeting before the Board, submit a completed final plan. If the Final Plan application is not submitted in 14 days prior to the Applicants meeting the Board shall not take action on the Final Plan at that meeting.
- 7.1.2 The time of submission of the Final Plan shall be as defined in Article IV, "Definitions".
- 7.1.3 A Public Hearing on the Final Plan will be held by the Board, if requested or if the Board deems it desirable. Such a hearing will get the normal posting and advertisement with all fees being paid by the Applicant. The Applicant shall comply with the performance and maintenance guarantee requirements set forth in Article X of this Ordinance. The Board shall, within sixty (60) days of the submission of the Final Plan, or within thirty (30) days after a public hearing, except as stated in 7.1.1, approve, approve with conditions or deny the application. The reasons for any conditions required or the grounds for denial shall be stated upon the Findings of Fact of the Board's review and transmitted to the Applicant in writing.

## 7.2 SUBMISSIONS

The Final Plan shall be drawn on one 24" x 36" 20-lb white bond paper for recording and shall be submitted along with ten (10) regular copies of it. Space shall be provided thereon for endorsement by all appropriate agencies and shall include:

1. All of the information presented on the Preliminary Plan and location map and any amendments thereto suggested, required, or agreed to by the Board.
2. The name, registration number, and seal of the land surveyor, architect, engineer, planning consultant, and soil scientist involved in its conception.
3. Street names and lines, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public or community use and the submission of local and/or state highway entrance permits if any are required.
4. Sufficient data acceptable to the Board to determine readily the location, bearing, and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Where practical, these should be tied to reference points previously established.
5. The length of all straight lines, the deflection angles of all curves, tangent distances, and tangent bearings for each street.
6. By proper designation, all public and/or community open space for which offers of cessionary made by the Applicant and those spaces to which title is reserved by the Applicant.
7. Lots within the subdivision numbered in accordance with local practice.
  1. Permanent reference monuments shall be shown as: "X". They shall be constructed in accordance with specifications prescribed herein and their location noted and referenced upon the Final Plan.
  2. The Applicant shall receive written approval from the E911 coordinator of any proposed road names prior to final plan approval and show the road name(s) on the final plan. The Applicant shall mark on the plan, lines or dots in the center of the streets at every fifty (50) foot interval so as to aid in the assignment of numbers to structures subsequently constructed and all other requirements set forth in conformance with the Enhanced 9-1-1 Ordinance.
  3. Wherever any residence or other structure is developed, it shall be the duty of the lot owner to procure the assigned number from the E911 coordinator. This shall be done at the time of issuance of the building permit.

### **7.3 FINAL APPROVAL AND FILING**

- 7.3.1 Upon approval by the Board, a notation to that effect upon the plan and the affixing of the signatures of a majority of the Board members on the Final Plan shall be deemed to have final approval, subject to any conditions that the Board required as part of the approval. One of the ten (10) submitted plans shall be transmitted to the Board of Selectmen for the Town records and the others retained by the Board and the Planning Department. After the required performance guarantee has been posted, the original signed plan shall be returned to the Applicant who shall, within ninety (90) days after the date of approval, file it in the York County Registry of Deeds. Failure to record within the specified ninety (90) days from the date of approval shall cause the approval to expire and to become null and void unless the Applicant can demonstrate, to the satisfaction of the Board that the delay was due to causes beyond the Applicant's control, in which case the Board may grant extension or extensions of time not to exceed, in total, one hundred twenty (120) days. Any request for an extension must be received by the Town prior to the end of the 90-day period.

At the time the Board grants the Final Plan approval, the Board may approve a phasing plan for the development in order to insure the orderly development of the project.

### **7.4 PLAN REVISIONS AFTER APPROVAL**

- 7.4.1 No changes, erasures, modifications, or revisions shall be made in any final plan after Board approval has been endorsed upon the plan. If an Applicant wishes to alter the approved plan he shall submit a revised plan consisting of the entire subdivision, or, if the plan consists of more than one sheet, that entire sheet on which the alterations is proposed. If any lots have been sold or are under sales contract, in either case, the new submission shall show it is a "Revision of the Plan Approved on (date)" and shall provide space for the usual Board approval. The procedure for the Final Plan approval, excluding the fee, will then be followed. No revised plan shall be recorded until it has been approved by the Board.

### **7.5 MUNICIPAL ACCEPTANCE OF STREETS AND OTHER LAND AREAS**

- 7.5.1 The approval by the Board of the subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any street, easement, park, playground, recreation area, or other open space area shown on such plan and the Final Plan shall bear a statement to this effect.
- 7.5.2 Referring to the above mentioned land areas, excluding streets, the Board or the Board of Selectmen may require the filing of a written agreement between the Applicant and the Board of Selectmen covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

## **ARTICLE VIII GENERAL REQUIREMENTS**

In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances the burden of proof of satisfactory performance shall be upon the Applicant.

### **8.1 PROVISION FOR PROPOSED PUBLIC SITES AND OPEN SPACES**

- 8.1.1 Depending upon the size and location of the subdivision, the Board may require the Applicant to provide up to ten (10) percent or not less than 10,000 sq. ft. of the total area for recreation. Such area shall be in one parcel and reasonably accessible from all lots within the subdivision.
- 8.1.2 Land reserved for park and/or recreational purposes shall be of a character, configuration and location suitable for the particular use intended. Any area to be used for active recreation purposes such as a playground or athletic field should be acceptable level and dry, have no outcropping of ledge or boulders, have a total frontage on one or more streets of at least 200 ft., and have no major dimension of less than 200 ft. Areas reserved for passive recreational uses shall have such access as the Board may deem suitable. The area, configuration and orientation of the site may be determined by the Board based upon its natural and scenic aspects and topographical characteristics.

### **8.2 NON BUILDABLE LAND**

- 8.2.1 The Board shall not approve any proposed subdivision that:
1. Are commonly recognized as "wetlands", which must be filled or drained, or land created by diverting recognized brooks, streams, or rivers unless the Applicant can obtain all required state and federal permits for such activities.
  2. Is obtained by filling or draining any portion of any body of water.

### **8.3 LOTS**

- 8.3.1 Minimum lot sizes shall conform to the applicable requirements of the Zoning Ordinance.

### **8.4 DRAINAGE EASEMENTS**

- 8.4.1 Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a drainage easement. Such easement(s) will be reviewed individually for width needs and considered during the review process by the Board and Director of Public Works to determine if the easement is of an adequate width.

## **8.5 UTILITIES**

8.5.1 The size, type and location of such public utilities as street lights, electric, telephone, gas lines, and fire hydrants etc. shall be approved by the Board and installed in accordance with applicable codes and specifications.

## **8.6 REQUIRED IMPROVEMENTS AND INSPECTION**

8.6.1 The following, where applicable, shall be required improvements: monuments, street signs, streets, sidewalks, water supply lines, sewage lines, and storm drainage culverts, except where the Board may waive the provisions of these regulations.

8.6.2 At least ten (10) days prior to the start of construction of required improvements the Applicant shall notify the CEO in writing of the time when he/she proposes to commence construction of such improvements so that the CEO can cause inspection to be made to ensure that all municipal specifications and requirements will be met during the construction of required improvements, and to ensure the satisfactory completion of improvements required by the Board.

8.6.3 If the municipal code enforcement officer shall find, upon inspection of the improvements performed before expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the Applicant, or that conditions imposed by the Board have not been met, the CEO shall then notify the Applicant and, if necessary, the bonding company, and take all necessary steps to preserve the Town's rights under the bond. No plan by the Applicant shall be approved by the Board as long as the Applicant is in default on a previously approved plan.

8.6.4 If unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the CEO, may upon approval of the Board, authorize modifications provided they are within the spirit and intent of the Board's approval. The CEO, under this section shall transmit a copy of such authorization to the Board at its next regular meeting.

8.6.5 The Applicant shall be required to maintain all streets, culverts and drainage ditches and provide for snow removal and sanding on streets until acceptance of said improvements by the Board of Selectmen.

## **8.7 FIRE PROTECTION**

1. The Board shall require fire protection for all developments and the Applicant shall provide written verification from the fire chief that their proposal meets his approval. The following forms of fire protection shall be allowed based on the circumstances surrounding the location of the development:

- a. Sprinkler system installed in each residential unit;
- b. Hook up to town water system and provide a hydrant every 800-1,000 feet.

## **8.8 GREEN BELTS**

- 8.8.1 For the purpose of these regulations, a "greenbelt" is defined as a strip of land vegetated with grass or other plant life maintained as open green space and located along the existing public road abutting the proposed development. Removal of dead trees, mowing of grass, and pruning of other vegetation, to the extent appropriate for routine maintenance, are the only cutting permitted within a greenbelt area. The only construction permitted within a greenbelt is that necessarily related to the use of a utility easement and/or that necessarily related to a driveway.
- 8.8.2 If the proposed subdivision abuts Routes 5, 202, or 4, any state-aid road or any town road, a strip of land (greenbelt) not less than twenty-five (25) feet and not more than one hundred (100) feet in width adjacent to said highway and running along said road may be required to be set aside as a greenbelt, and the Applicant shall submit provisions for maintaining this area consistent with Section 8.8.1 above. Said green belt shall be shown on the Preliminary and Final Plans. The Applicant may request a waiver of this requirement to the Board as part of the review process if the Applicant can demonstrate that this provision is not necessary for future street widening.

## **ARTICLE IX DESIGN STANDARDS**

### **9.1 MONUMENTS**

- 9.1.1 Permanent monuments shall be set at all corners and angle points of the subdivision boundaries, at corners of each lot, and also at all street intersections and points of curvature. These monuments must be set prior to the acceptance of any street by the Board of Selectmen.
- 9.1.2 Monuments shall be stone, metal, or concrete located in the ground at final grade level and indicated on the Final Plan. After they are set, if stone or concrete, drilled holes *1/2* inch deep shall locate the point or points described above.

### **9.2 STREET SIGNS**

- 9.2.1 Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Code Enforcement Officer.
- 9.2.2 Street name signs shall be furnished and installed by the Applicant. The type, size, and location shall be designed to meet the Manual of Uniform Traffic Control Devices (MUTCD).

### 9.3 STREETS

- 9.3.1 Proposed streets shall conform to the standards found in the Street Design and Construction Standards Ordinance unless a waiver of the street standard design has been granted by the Board.
- 9.3.2 In the case of dead-end streets, where needed or desirable, the Board may require the reservation of a fifty (50) foot wide easement in the line of the street or in any practical direction to provide for continuation of utilities or access of pedestrian traffic to the next street.
- 9.3.3 Construction of streets, sidewalks, bridges, culverts, and surface drainage systems shall conform to applicable standards and specifications of this section.
- 9.3.4 Grades of all streets shall conform, in general to the terrain, and shall not be less than one half (1/2) of one (1) percent nor more than ten (10) percent in residential areas, but, in no case, more than three (3) percent within fifty (50) feet of any intersection.
- 9.3.5 Intersections of streets shall be at angles as close to ninety (90) degrees as possible and in no case shall two streets intersect at an angle smaller than sixty (60) degrees. To this end where one street approaches another between 60-90degrees, the former street should be curved approaching the intersection.
- 9.3.6 A dead-end street, or cul-de-sac, shall not exceed fifteen hundred feet (1500) feet in length and shall have a turnaround at the closed end in which the radius of the traveled way shall not be less than 60 feet.
- 9.3.7 All streets shall be provided with adequate drainage facilities, having year-round effectiveness, that will provide for the removal of stormwater thereby preventing flooding of the pavement and surrounding property and these facilities shall be so constructed as to prevent erosion of the drainage-ways.
- 9.3.8 The reserved right-of-way for all residential streets shall be not less than fifty (50) feet in width and the paved surface shall be not less than twenty-four (24) feet; the centerlines of the right-of-way and the paved surface shall coincide.
- 9.3.9 Side slopes of filled roadbeds shall not be steeper than one (1) vertical foot in every three (3) horizontal feet (1 to 3 or 33 and 113 percent). They shall be smoothly graded, loamed and seeded by the Applicant with "Soil Conservation Mix" and a viable and effective growth produced which will prevent erosion.
- 9.3.10 All required monumentation must be set and a written statement to this fact must be submitted by a land surveyor to the CEO prior to the issuance of any building permits on an approved subdivision.

#### **9.4 CUTTING AND PLANTING**

- 9.4.1 Trees, natural undergrowth, topsoil, gravel, or other soil deposits in their natural state at the time of the pre-application inspection by the Board shall be considered a part of the subdivision and, except for the removal or rearrangement required for building construction, landscaping, parking lots, recreations areas and streets or for the removal of diseased and hazardous trees, shall not be removed except in accordance with specific agreement with the Board.
- 9.4.2 Cutting Restrictions: On slopes exceeding 25 percent, no cutting will be permitted. The Board or its representative may grant such relief from this restriction as it deems reasonable or necessary. This restriction shall be placed in the deeds as a covenant and shall be perpetual, (applicable to subdivisions with slopes of over 10%).
- 9.4.3 It shall be the responsibility of the Applicant, in all landscaped areas created by filling or redistribution of available soil, to ensure that the earth is properly compacted, fertilized, seeded and a viable and effective growth produced thereon that will prevent erosion or slippage, or both, for a period of two (2) years after construction. The Board may grant a waiver of these standards if justification can be made that strict adherence to the standards is not warranted.

#### **9.5 STORM WATER MANAGEMENT DESIGN STANDARDS**

- 9.5.1 Adequate provision shall be made for disposal of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, and storm drains. The storm water management system shall be designed to convey storm water flows to existing watercourses or storm drains.
- A. Where a subdivision is traversed by a stream, river, or surface water drainage way, or where the Board feels that surface water run-off to be created by the subdivision should be controlled, there shall be easements or drainage swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a registered professional engineer.
  - B. Drainage easements for existing watercourses or proposed drainage ways shall be provided at least thirty feet wide, conforming substantially with the lines of existing natural drainage.
  - C. All components of the storm water management system shall be designed to limit peak discharge to predevelopment levels for every storm between the 2-year, 10-year, and 25 year storm, Type III storm frequencies, based on rainfall data for Portland, Maine. When the subdivision discharges directly to a major water body as defined in the Zoning Ordinance, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitably sized based on the most recent data from an acceptable design methodology.

- D. The Board may require nutrient removal structures where maintaining water quality in downstream waters is deemed important.
- E. The Board, under advisement of a registered professional engineer or other qualified professional, shall have the authority to waive detention requirements where benefits to the public are minimal. This shall be determined on a case-by-case basis.

- 9.5.2 The Board may require nutrient removal structures where maintaining water quality in downstream waters is deemed important. The storm water management system shall be designed to accommodate upstream drainage. Nutrient removal analysis shall be considered when doing a subdivision in the direct watersheds of a water body Most at Risk in Waterboro as defined by the Maine Department of Environmental Protection Nonpoint Source Priority Watersheds List.
- 9.5.3 Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The stormwater shall not overload existing or future planned storm drainage designs. The Board, under advisement of a registered professional engineer or other qualified professional, shall recommend to the board if the waiver of the design standards is justified where an acceptable alternative is demonstrated.
- 9.5.4 Catch basins shall be installed where necessary or required and should be located at the curb line or the invert of a ditch as required.
- 9.5.5 Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever type storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
- 9.5.6 The plan shall indicate who will be responsible for maintenance of detention or other drainage structures and elements and nutrient removal structures.

## **9.6 CERTIFICATION OF CONSTRUCTION**

- 9.6.1 Certification of Construction. "As built" plans shall be submitted to the Planning Department for the Road Review Committee. Upon completion of street construction and prior to consideration by the Board of Selectmen of acceptance of a street, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Board of Selectmen, prepared at the expense of the Applicant, certifying that the proposed way meets the design and construction requirements of these regulations and the Street Design and Construction Standards Ordinance for the Town of Waterboro.

## **ARTICLE X PERFORMANCE GUARANTEE**

### **10.1 Types of Guarantees**

Prior to the release of the approved subdivision plan, the Applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs. The Applicant shall deposit with the Town Escrow Agent or Planning Office an amount equal to 125% of the estimated costs of construction, including but not limited to the construction of streets, sidewalks, drainage, detention ponds, recreation areas, playgrounds, sewer lines, water lines, or other utility or use requiring underground construction. This fee is to be paid by the Applicant to the Town of Waterboro upon final approval of the subdivision. Any remaining funds will be refunded to the Applicant at the completion of the project.

#### 10.1.1 Forms of a Performance Guarantee may include:

- A. Either a certified check payable to the municipality or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- B. A performance bond payable to the municipality issued by a licensed surety company, approved by the municipal officers, or town administrator;
- C. An irrevocable letter of credit from a licensed financial institution establishing funding for the construction of the subdivision, from which the municipality may draw if construction is inadequate, approved by the municipal officers, or town administrator;

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the municipal engineer, Director of Public Works, municipal officers, and/or municipal attorney.

#### 10.1.2 Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the Applicant, and a date after which the Applicant will be in default and the municipality shall have access to the funds to secure and stabilize any safety concerns from the defaulted project.

### 10.1.3 Escrow Account

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the Applicant, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal by a co-owner, but the municipality shall be able to withdraw funds without the consent of the co-owner.

### 10.1.4 Performance Bond

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the Applicant, and the procedures for the payment of claims by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought. The bond shall run to the Town; a contractor's bond will not be accepted as a performance bond under this Ordinance.

### 10.1.5 Letter of Credit

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

### 10.1.6 Phasing of Development

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots 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.

### 10.1.7 Release of Guarantee

Prior to the release of any part of the performance guarantee, the Town Administrator shall determine to its satisfaction, based upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

### 10.1.8 Default

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

10.1.9 Improvements Guaranteed

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations for the construction of the following but not limited to; the streets, storm water management facilities, public sewage collection or disposal facilities, public water systems, erosion and sedimentation control measures, and street lighting.

**ARTICLE XI WAIVERS**

- 11.1 Where the Board finds that strict compliance with these Regulations due to unusual conditions existing in any particular proposed subdivision, it may give justifiable relief by granting waiver to regulations provided, however, such actions will not have the effect of defeating the intent of these regulations or any Official Map, Comprehensive Plan or Zoning Ordinance which may exist.
- 11.2 Where the Board determines that, due to certain conditions existent in a proposed subdivision, the provision of certain required improvements is not requisite in the public interest, or is inappropriate because of inadequacy or lack of prerequisite facilities in the proximity of the proposed subdivision, it may waive such requirements, subject to appropriate conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

**ARTICLE XII APPEALS**

- 12.1 An appeal from a decision of the Board may be taken to the Zoning Board of Appeals.

**ARTICLE XIII SEPARABILITY AND EFFECTIVE DATE**

- 13.1 The invalidity of any provision of this ordinance shall not invalidate any other part.
- 13.2 This ordinance shall take effect immediately upon adoption by the Waterboro Board of Selectmen.