

# SUBDIVISION ORDINANCE FOR THE TOWN OF BROOKS

Prepared by the  
Town of Brooks Planning Board

2007

This is an ordinance to guide the Planning Board of the Town of Brooks in considering proposed subdivisions.

## **ARTICLE 1 PURPOSE**

The purposes of these regulations are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Brooks, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Brooks, Maine, the Planning Board shall consider certain outlined criteria and before granting approval shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of the State of Maine. (Title 30, AMRSA, Sec 4401)

## **ARTICLE II – AUTHORITY AND ADMINISTRATION**

### **2.1 Authority**

- A. These standards have been prepared in accordance with the State of Maine (Title 30A M.R.S.A Sec 4401-4407 Subsection 2).
- B. These standards shall be known and may be cited as “Subdivision Ordinance of the Town of Brooks, ME”.

### **2.2 Administration**

- A. The Planning Board of the Town of Brooks, herein called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined in Title 30 A M.R.S.A Sec. 4401-4407 within the boundaries of the Town of Brooks.

## **ARTICLE III DEFINITIONS**

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

**Cluster Subdivision:** A form of development that allows a subdivision design in which individual lot sizes and setbacks are reduced in exchange for the creation of common open and recreational areas, the preservation of environmentally sensitive areas, agriculture and silviculture (forestry) and the reduction in the size of road and utility systems.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by these regulations for a Final Plan, or by a vote of the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.

**Comprehensive Plan:** Any part or the whole of the document so called and adopted by the Town of Brooks at the Town Meeting in the year 2004.

**Contiguous Lots:** Lots which adjoin at any line or point, or are separated at any point by a body of water less than 15 feet wide.

**Densely Developed Area:** Any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.

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

**Driveway:** A vehicular access-way serving two dwelling units or less.

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

**Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved sealed and signed by the professional land surveyor under whose responsible charge they were completed and may be recorded at the Registry of Deeds. (See 30-A Sec. 4403)

**Freshwater Wetland:** Freshwater swamps, marshes, bogs and similar areas which are:

- A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence or wetland vegetation typically adapted for life in saturated soils; and
- B. Not considered part of a great pond, coastal wetland, river, stream, or brook. These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

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

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

**Normal High Water Mark of Inland Waters:** That line along the shore of a great pond, river, stream, brook, or other nontidal body of water which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or form changes in vegetation and which distinguishes between predominantly terrestrial land.

**Industrial Park or Development:** A subdivision in an area zoned exclusively for industrial users, or a subdivision planned for industrial uses and developed and managed as a unit, usually with provision for common services for the users.

**Manufactured Housing:** A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported, by the use of its own chassis or an independent chassis, to a building site. The term includes any type of building which is constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this section, two types of manufactured housing are included. Those two types are:

- (1) Those units constructed after June 15, 1976, commonly called "newer mobile homes", which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities including the plumbing, heating, air conditioning or electrical systems in the unit;
- (2) Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are

not constructed on a permanent chassis and are designed to be used as dwellings on foundations when connected to required utilities, including the plumbing, heating, air-conditioning or electrical systems contained in the unit.

**Mobile Home Park:** means a parcel of land under unified ownership approved by the municipality for the placement of 3 or more manufactured homes.

**Mobile Home Park Lot:** means the area of land on which an individual home is situated within a mobile home park and which is reserved for use by the occupants of that home. A municipality may require a lot to be designated on a mobile home park plan.

**Mobile Home Subdivision or Development:** means a parcel of land approved by the municipal reviewing authority for the placement of manufactured houses on individually owned land.

**Net Residential Acreage:** The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development and as outlined in Section 11.3.

**Net Residential Density:** The average number of dwelling units per residential acre.

**Official Submittal Date:** The date upon which the Board issues a receipt indicating a complete application has been submitted.

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

**Planned Unit Development:** A development controlled by a single developer, for a mix of residential, commercial, and industrial uses. A PUD is undertaken in a manner that treats the developed area in its entirety to promote the best use of land, including the creation of open space, a reduction in the length of road utility systems, and the retention of the natural characteristics of the land.

**Planning Board:** The 7 member Board of the Town of Brooks, as created at Special Town Meeting, May 19, 1988 for the purpose of planning the current and future development of the Town of Brooks.

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

**Recording Plan:** A copy of the Final Plan which is recorded at the Registry of Deeds and which need not show information not relevant to the transfer of an interest in the property, such as sewer and water line locations and sizes, culverts and building lines.

**Resubdivision:** The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

**Solar Collector:** A device, or combination of devices, structure, or part of a device or structure that transforms direct solar energy into thermal, chemical, or electrical energy and that contributes to a building's energy supply.

**Solar Energy System:** A complete design or assembly consisting of a solar energy collector, an energy storage facility (when used), and components for the distribution of transformed energy.

**Spaghetti Lot:** A lot in a proposed subdivision giving shore frontage on a river, stream, brook, great pond or coastal wetland with a lot depth to shore front ratio of greater than 5 to 1.

**Street:** Public and private ways such as alleys, avenues, boulevards, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way.

Street Classifications:

Numbered Highways: A major thoroughfare that serves as a major traffic way for travel between and through the Town of Brooks. The following roadways shall be considered: State Routes #7, #137, #139, and #203.

Town Roads: All other town maintained roads that serve as feeders to Numbered highways.

Public Easements: A road that the general public has the right of unobstructed access to by foot or motor vehicle, but which the municipality does not have the obligation to maintain.

Private Right-of-Way: A vehicular access way that is not intended to be dedicated as a public way.

**Subdivision:** The division of a tract or parcel of land into three or more lots within any five year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise. This includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5 year period.

A division accomplished by the following is considered exempt under this ordinance unless the intent of the transferor is to avoid the objectives of this ordinance:

- (1) Devise
- (2) Condemnation
- (3) Order of court
- (4) Gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift. If the real estate under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. "Person related to the donor," means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoptions. A gift under this paragraph cannot be given for consideration that is more than ½ the assessed value of the real estate.
- (5) Gift to the Town of Brooks
- (6) Transfers to owners of land abutting that land that does not create a separate lot
- (7) Transfer of a tract or parcel of land upon each of which permanent dwelling structures legally existed before September 23, 1971

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two lots and the next dividing of either of said first two lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both such divisions are accomplished by a subdivider who shall have retained one of such lots for his own use as a single family residence for a period of at least five years immediately prior to such second dividing. Lots of forty or more acres shall not be counted as lots, except as prescribed by law.

For the purposes of these regulations, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of the land on both sides thereof.

**Subdivision, Major:** Any subdivision containing five or more lots or dwelling units, or any subdivision containing a proposed street.

**Subdivision, Minor:** Any subdivision containing four lots or four dwelling units or less, and in which no street is proposed to be constructed.

**Tract, or Parcel, of Land:** All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream, tidal waters where there is no flow at low tide, or a private road established by the abutting land owners.

#### **ARTICLE IV – ADMINISTRATIVE PROCEDURE**

**4.1 Purpose.** The purpose of this article is to establish an orderly, equitable and expeditious procedure for reviewing subdivisions.

**4.2 Agenda.** In order to avoid unnecessary delays in processing applications for subdivision review, the Board shall prepare an agenda for each regularly scheduled meeting. Applicants shall request to be placed on the Board's agenda at least one week in advance of a regularly scheduled meeting by contacting the Chairman. Applicants who attend a meeting but who are not on the Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Board so votes.

#### **ARTICLE V – PREAPPLICATION**

**5.1 Procedure.**

- A. Applicant presentation and submission of sketch plans.
- B. Question and answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
- C. Scheduling on-site inspection.

**5.2 Submission.** The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. (It is recommended that the sketch plan be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located.) The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten (10) acres in size.

**5.3 Contour Interval and On-Site Inspection.** Within thirty (30) days of Question and answer period, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan and hold an on-site inspection of the property. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection.

**5.4 Rights not vested.** The submittal or review of the preapplication sketch plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.S.R.A. S302.

## **ARTICLE VI – PRELIMINARY PLAN FOR MAJOR SUBDIVISION**

### **6.1 Procedure**

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit a subdivision application and a Preliminary Plan at least 21 days prior to a scheduled meeting of the Board. Failure to do so will require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
- B. All applications for a Subdivision shall be accompanied by an application fee of \$80.00 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall pay a fee of \$25.00 per lot or dwelling unit to be deposited in a special account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant, and require that the applicant deposit an additional \$25.00 per lot or dwelling unit. The Board shall continue to notify the applicant and require an additional \$25.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75% of the original deposit. Any balance in the account remaining after a decision on the final plan application by the Board shall be returned to the applicant. If the Board deems a public hearing necessary, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. The subdivider, or his or her duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. The subdivider shall provide a letter of notification, giving general description of the project, to the Board to be co-signed by the Chairperson and sent by registered mail to all abutting property owners.
- E. Within thirty (30) days of receipt of a Preliminary Plan, application form and fee, the Board shall notify the applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
- F. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Preliminary Plan application. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of receipt of a complete application, and shall publish notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two times, the date of the first publication to be at least seven days prior to the hearing.
- G. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a completed application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- H. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:
  1. The specific changes which it will require in the Final Plan;
  2. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare.
- I. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any.

## **6.2 Submissions.**

A. Location Map. A Location Map adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality shall accompany the Preliminary Plan. The Location Map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision.
2. Locations and names of existing and proposed streets.
3. Boundaries and designations of zoning districts.
4. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.

B. Preliminary Plan. The Preliminary Plan shall be submitted in three copies of one or more maps or drawings, which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred feet to the inch; The Board may allow plans for subdivisions containing more than one hundred (100) acres to be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. In addition, one copy of the Plan(s) reduced to a size 8½ by 11 inches or 11 by 17 inches, and all accompanying information shall be furnished to each Board member no less than seven (7) days prior to the meeting. The following information shall be either shown on the Preliminary Plan or accompany the application for preliminary approval:

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Tax Assessor's Map and Lot numbers.
2. Verification of right, title or interest in the property.
3. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments.
4. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances affecting the property.
5. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
6. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
7. The number of acres within the proposed subdivision, location of property lines, existing buildings, and watercourses, freshwater wetlands vegetative cover type, and other essential existing physical features.
8. Indication of the type of sewerage disposal to be used in the subdivision.
  - a. When sewerage disposal is to be accomplished by connection to a public sewer, a letter from the Sewer District indicating there is adequate capacity within the District's system to transport and treat the sewerage shall be submitted.
  - b. When sewerage disposal is to be accomplished by subsurface sewerage disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
9. Indication of the type of water supply system(s) to be used in the subdivision.
  - a. When water is to be supplied by public water supply, a letter from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
10. The date the Plan was prepared, magnetic North point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan. If the subdivider is not the owner of the property, evidence of the subdivider's right, title or interest to the property.
11. The names and addresses of the owners of record of the adjacent property, including any property directly across an existing public street from the subdivision.



12. The location of any zoning boundaries affecting the subdivision.
13. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
14. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
15. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
16. The proposed lot lines with approximate dimensions and lot areas.
17. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
18. The location of any open space to be preserved and a description of proposed improvements and its management.
19. A copy of that portion of the county Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
21. A hydrogeological assessment, prepared in accordance with Section 10.11 by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and
  - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers", by the Maine Geological Survey, Map No. \_\_\_\_: or
  - b. The subdivision has an average density of less than 100,000 square feet per dwelling unit.

## **ARTICLE VII – FINAL PLAN FOR MAJOR SUBDIVISION**

### **7.1 Procedure.**

Those Subdividers whose land is being divided into only 4 lots and who do not propose a street may turn their preliminary plan into their final plan with the approval of the Planning Board.

- A. The subdivider shall, within six months after the approval of the Preliminary Plan, file with the Board an application for approval of the Final Plan at least 21 days prior to a scheduled meeting of the Board. If the application of the Final Plan is not submitted within six months after Preliminary Plan approval, the Board may refuse without prejudice to act on the Final Plan, and require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
- B. An application fee of \$80.00, payable by check to the municipality, shall accompany all applications for Final Plan approval for Major Subdivision. If the Board deems a public hearing necessary, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing where appropriate:
  1. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Great Ponds Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.
  2. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
  3. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- D. The subdivider, or his or her duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.

- E. Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider. The Board shall determine whether to hold a public hearing on the Final Plan application.
- F. The Board may hold a public hearing within thirty (30) days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days before the hearing and the notice of the hearing shall be posted in at least three prominent places at least seven days prior to the hearing.

When a subdivision is located within 500 feet of a municipal boundary, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality involved at least ten (10) days prior to the hearing.

- G. The Board shall notify the Road Commissioner, School Superintendent, Police Chief, and Fire Chief of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
- H. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Article XII.
- I. If the subdivision is located in more than one municipality to discuss the Plan.
- J. The location, names, and present widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established. The length of all straight lines, the deflection angles radii, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.
- K. The Board may require a soil erosion and sedimentation control plan, prepared in accordance with the standards contained in the latest revised edition of Technical Release 55, *Urban Hydrology for Small Watersheds*, published by the U.S. Soil Conservation Service.
- L. The width and location of any streets or public improvements shown upon the Official Map and the Comprehensive Plan, if any, within the subdivision.
- M. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer of cession shall be included.
- N. A list of construction items with cost estimates that will be completed by the developer prior to the sale of lots. A separate list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the municipality, or quasi-municipal districts. These lists shall include but not be limited to:

- Schools, including busing
- Street Maintenance and snow removal
- Police and fire protection
- Solid waste disposal
- Recreation facilities
- Storm water drainage
- Wastewater treatment
- Water supply

The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the sub-division.

- O. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.

### **7.3 Final Approval and Filing.**

- A. The Board shall approve no plan as long as the subdivider is in violation of the provisions on a previously approved Plan.
- B. Upon findings of fact and determination that all standards in Title 30, AMRA, Sec. 4401-4407, subsection 3, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. A majority of those Planning Board Members present and voting are given authority to make decisions reflecting actions of the Board pertaining to the applicant. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. The Board shall retain one copy of the signed plan as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall become null and void.
- C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more phases subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more phases subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the Plan to be divided into sections to prevent classroom overcrowding.
- D. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the revised Final Plan is first submitted and the Board approves any modifications, except in accordance with Article VII. The Board shall make findings that the revised meets the standards of Title 30-A MRSA, subsection 3, and these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment and maintenance of any such dedicated area.
- F. Failure to commence substantial construction of the subdivision within 2 years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

## **ARTICLE VIII – REVISIONS TO APPROVED PLANS**

### **8.1 Procedure.**

An applicant for a revision to a previously approved plan shall, at least seven days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.

### **8.2 Submissions.**

The applicant shall submit a copy of the approved plan, as well as three copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of these regulations.

### **8.3 Scope of Review.**

The Board's scope of review shall be limited to those portions of the plan that are proposed to be changed and their impact on the overall sub-division.

## **ARTICLE IX – ENFORCEMENT**

### **9.1 Inspection of Required Improvements.**

- A. At least five days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall:
  1. Notify the Code Enforcement Officer in writing of the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal 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.
  2. Deposit with the Municipal Officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection.
- B. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.
- C. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. the inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries changes of grade by more than 1%, etc, the subdivider shall obtain permission to modify the plans from the Board.
- D. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By December 1 of each year, during which the construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do

the job they were designed for. The report shall also include a discussion and recommendations on any problems that were encountered.

- E. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed town way to a Town Meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.
- G. The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality.

## **9.2 Violations and Enforcement.**

- A. No plan of a subdivision of land within the municipality that would constitute a subdivision shall be recorded in the Registry of Deeds until the Board in accordance with these regulations has approved a Final Plan.
- B. No person, firm, corporation or other legal entity may convey, solicit, offer, or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation or other legal entity may convey, solicit, offer, or agree to convey any land in a subdivision which is not shown on the Final Plan as a separate lot.
- D. Any person, firm, corporation or other legal entity who conveys, solicits, offers, or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be punished by a fine of not less than \$100, and not more than \$2,500 for each such conveyance, offering or agreement. The Municipality may institute proceedings to enjoin the violation of this section, and may collect attorney's fees and court costs if it is the prevailing party.
- E. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which the Board has not approved a Final Plan.
- F. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings that require a Final Plan approved as provided in these regulations and recorded in the Registry of Deeds.
- G. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.

## **ARTICLE X – GENERAL STANDARDS**

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the applicant.

### **10.1 Conformance with Comprehensive Plan.**

All proposed subdivisions shall be in conformity with the Comprehensive Plan or policy statement of the Town of Brooks and with the provisions of all pertinent state and local codes and ordinances.

### **10.2 Retention of Open Spaces and Natural or Historic Features.**

- A. The plan shall, by notes on the Final Plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
- B. The Board shall require the reservation of ten percent (10%) of the area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. In determining the need for open space, the Board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the municipal comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development. The developer may instead make a payment in-lieu-of dedication into a municipal open space or recreation land acquisition fund.
- C. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access, as the Board may deem suitable and no less than twenty-five (25) feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary or appropriate.
- D. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
- E. The Board may require that the development plans include a landscape plan that will show the preservation of any existing trees larger than 24" diameter breast height, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas.
- F. If the proposed subdivision contains any identified historical or archeological sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare or irreplaceable natural areas, these areas shall be included in the open space and suitably protected by appropriate covenants and management plans.
- G. Any public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the open space, with provisions made for continued public access.
- H. Subdivisions may not be situated on forestlands that have been the object of so-called "liquidation harvesting". The Planning Board must determine that the parcel has not been harvested in violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting. If a violation has occurred, the Planning Board must determine that at least 5 years has elapsed since the landowner who violated the rules first acquired the parcel. If less than 5 years has elapsed approval is prohibited. This is effective for lands acquired after 1/2/05. If the Planning Board needs assistance with this determination, they may inquire of the Department of Conservation or Bureau of Forestry. IF these organizations cannot help then the Planning Board may require the applicator to provide a determination certified by a licensed forester.

### **10.3 Land Not Suitable for Development.**

The following lands shall not be included in the calculations of lot area for the purpose of meeting the requirements of the Minimum Lot Size Law.

- A. Land that is situated below the normal high water mark of any water body.
- B. Land which is located within the 100 year frequency flood plain as identified by the Federal Emergency Management Agency or the Department of Housing and Urban Development, Flood Insurance Administration, unless the subdivider shows proof through the submittal of materials prepared by a Registered Land Surveyor which shows that the property in question

lies at least two feet above the 100 year flood level. The elevation of filled or made land shall not be considered.

- C. Land that is part of a right-of-way, or easement, including utility easements.
- D. Land which has a water table within ten (10) inches of the surface for at least three months of the year as identified by the County Soil Survey. The Board may use such lands in the lot area calculations if municipal sewage collection and treatment is provided and if the lot(s) are to be deed restricted to prohibit buildings with basements or require basement floor elevations one foot above the seasonal water table, and if domestic sewage can be treated safely based on state and local plumbing codes.
- E. Land that has been created by filling or draining a pond or wetland.

#### **10.4 Blocks.**

Where street lengths exceed 1,000 feet between intersections with other streets, the Board may require an utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with design standards in Section 11-2. Maintenance obligations of the easement shall be included in the written description of the easement.

#### **10.5 Lots. Minimum lot size is two acres.**

- A. All lots shall meet the minimum, requirements of the Zoning Ordinance in the zoning district in which they are located. The lot configuration should be designed to maximize access to solar energy on building sites with suitable orientation.
- B. Lot configuration and area shall be developed to provide for adequate off-street parking and service facilities based upon the type of development contemplated. Wherever possible, parking areas shall be laid out to coincide with building locations to maximize solar energy gain.
- C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads, the plan, and deed restrictions, shall indicate vehicular access shall be located only on the less traveled way.
- D. Wherever possible, side lot lines shall be perpendicular to the street.
- E. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future resubdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extension of the utilities.
- F. If a lot on one side of a stream, inland water body, road or other similar barrier fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, inland water body, or road to meet the minimum lot size or for the purposes of on-site waste disposal.
- G. 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.
- H. Lots shall be numbered in such a manner as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The Postmaster shall review the lot numbering and his comments considered by the Board.
- I. Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly onto the arterial street. This requirement shall be noted on the Plan and in the deed of any lot with frontage on the arterial street.

- J. Any subdivision that crosses municipal boundaries shall not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways.

#### **10.6 Utilities.**

- A. Utilities shall be installed underground except as otherwise approved by the Board.

- B. Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- C. The size, type and location of street lights, electric and gas lines, telephone and other utilities shall be shown on the plan and approved by the Board.

#### **10.7 Required Improvements.**

The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

- A. Monuments. All subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by  $\frac{3}{4}$  x four foot steel rebar set to a finish grade.
- B. Water Supply.  
All subdivisions shall provide sufficient water for the reasonably foreseeable needs.
  - 1. When a subdivision is to be served by a public water system, the complete supply system, including fire hydrants, shall be installed at the expense of the subdivider.
    - a. The subdivider shall provide a written statement from the servicing water company or district that adequate water for both domestic and fire fighting purposes can be provided without placing undue burden on the source, treatment facilities or distribution system involved. The subdivider shall be responsible for paying the costs of system improvements necessary to serve the subdivision.
    - b. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the Fire Chief.
  - 2. When the location of a subdivision does not allow for a financially reasonable connection to a public water system, the Board may allow the use of individual wells or a private community water system.
    - a. Dug wells shall be permitted only if it is demonstrated to be not economically feasible to develop other ground water sources, and shall be constructed so as to prevent infiltration of surface water into the well. Unless otherwise permitted by the Board, the subdivider shall prohibit dug wells by deed restriction and by a note on the plan.
    - b. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
    - c. The subdivider shall construct ponds and dry hydrants to provide adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to and maintenance of the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction.
- C. Sewage Disposal.
  - 1. Public System.
    - a. A sanitary sewer system shall be installed at the expense of the subdivider when there is a public sanitary sewer line located within 1,000 feet of the proposed subdivision at its nearest point. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's collection and treatment system.



- b. The sewer district shall review and approve in writing the construction drawings for the sewage system.
- 2. Private Systems.
  - a. The developer shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
  - b. In no instance shall a disposal area be permitted on soils or on a lot that requires a New System Variance from the Subsurface Wastewater Disposal Rules.

D. Surface Drainage.

The storm water management plan submitted in accordance with Section 11.4 shall be installed.

E. Municipal Solid Waste Disposal

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

## 10.8 Land Features.

- A. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.
- B. Except for normal thinning, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion and to minimize storm water runoff.
- C. To prevent soil erosion in the shoreline areas, tree cutting in the strip extending one hundred feet inland from the normal high water mark of any waterbody shall be limited in accordance with the following: State Mandatory Shoreland Zoning Law – Title 38 Section 439 Subsection 6.
- D. The subdivision shall not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

## 10.9 Dedication and Maintenance of Common Open Space and Services

- 1. All common land, facilities and property shall be owned jointly or in common by the owners of the dwelling units by means of a home-owners association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the municipality.
- 2. Further subdivision of the common land or its use for other than the non-commercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land.
- 3. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
  - a. It shall not be used for future building lots, and
  - b. A part of all of the common open space may be dedicated for acceptance by the municipality.
- 4. The by-laws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.

5. Covenants for mandatory membership in the homeowners association setting forth the owners' rights, interests, and privileges in the association and the common property, shall be reviewed by the Board and included in the deed for each lot or dwelling.
6. The homeowners association shall have the responsibility of maintaining the common property or facilities.
7. The association shall levy annual charges against all owners of dwelling units to defray the expenses connected with the maintenance of common property and tax assessments.
8. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

#### **10.10 Construction in Flood Hazard Areas.**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, the plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in the deed to any lot that is included or partially included in the flood hazard area.

#### **10.11 Impact on Ground Water.**

The following unless otherwise waived by the Planning Board.

- A. If a hydrogeologic assessment is required, 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. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
  5. An analysis and evaluation of the effect of the subdivision on ground water 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, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. 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.
- B. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
- C. 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.
- D. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds in the affected lots.
- E. Surface water; 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 Title 38, chapter 3, Subsection I article 2-B, the subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

## **ARTICLE XI – ROAD DESIGN & CONSTRUCTION STANDARDS**

### **11.1 General Requirements.**

1. The proposed subdivision shall provide for safe access to and from public and private roads. Safe access shall be assured by providing an adequate number and location of access points with respect to sight distances, intersections, schools and other traffic generators.
2. Provisions shall be made for providing and maintaining convenient and safe emergency vehicle access to lots.
3. The Department of Transportation has recommendations in pamphlet form for creation of driveways and roads that meet with state or state aid highways. These should be adhered to.
4. The Planning Board shall not approve any subdivision plan unless proposed roads are designed in accordance with the specifications contained in these regulations. Approval of a Final Plan by the Planning Board shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.
5. Applicants shall submit to the Planning Board, as part of their Final Plan, detailed construction drawings showing the plan profile and typical cross-section of the proposed roads. The plans shall include the following information:
  - a. Date, scale, and magnetic or true north point.
  - b. Intersections of the proposed road with existing roads.
  - c. Roadway and right-of-way limits including edge of pavement, edge of pavement, edge of shoulder, sidewalks, and curbs.
  - d. Complete curve data shall be indicated for all horizontal and vertical curves.
  - e. Turning radii at all intersections.
  - f. Centerline gradients.
  - g. Locations of all existing and proposed utilities, culverts.

### **11.2 Road Design Standards**

1. These design standards shall be met by all roads within subdivisions reviewed under these regulations, and shall control the roadway, shoulders, sidewalks, drainage systems, culverts, and other appurtenances.
2. Roads shall be designed to discourage through traffic within a subdivision.
3. Wherever existing or other proposed roads, topography, and the public safety permit, roads should run in east-west directions to maximize access for solar energy.
4. Any subdivision containing twenty (20) lots or more shall have at least two (2) road connections with existing public roads on an approved development plan for which performance guarantees have been filed and accepted.
5. The following design standards apply according to road classification:

DESCRIPTION	PUBLIC RIGHTS-OF-WAY	PRIVATE RIGHTS-OF-WAY
Minimum Right-of-Way-Width	50'	50'
Minimum Pavement Width	20'	18'
Minimum Shoulder Width (each side)	3'	3'
Maximum Grade	8%	10%
Minimum Centerline Radius	150°	150°
Roadway Crown	1/4"/foot	1/4"/foot
Minimum angle of road intersections	90 degrees	90 degrees
Maximum grade within 75 feet of intersection (measured from edge of pavement)	2%	2%
Minimum shoulder radii at intersections	15'	N/A
Minimum r/o/w radii at intersections	10'	10'
Minimum bottom of ditch below roadway elevation	20"	20"

6. The centerline of the roadway shall be the centerline of the right-of-way.
7. Dead End Roads: In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii:
8. Sixty five (65) foot property line radii and fifty (50) foot outer edge of travel way radii. The Planning Board may require the reservation of a twenty (20) foot easement in line with the dead end road to provide continuation of pedestrian traffic or utilities to the next road. The planning Board may also require the reservation of a fifty (50) foot easement in line with the dead end road to provide continuation of the road where future subdivision or development is possible. The maximum length of any dead end road shall not exceed 1,000'.

### 11.3 Road Construction Standards.

- A. Minimum thickness after compaction.

#### **Street Materials**

#### **Minimum Requirements**

	<b><u>Arterial</u></b>	<b><u>Collector</u></b>	<b><u>Minor</u></b>	<b><u>Private ROW</u></b>	<b><u>Industrial Commercial</u></b>
Aggregate Sub-base Course (Max sized stone 4")	18"	18"	18"	18"	18"
Crushed Aggregate Base Course	12"	12"	12"	12"	12"
Hot Bituminous Pavement					
Total Thickness	3"	3"	3"	3"	3"
Surface Course	1 1/2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"
Base Course	1 1/2"	1 1/2"	1 1/2"	1 1/2"	1 1/2"

B. Preparation.

1. Before any clearing has started on the right of way, the following shall be staked and flagged at 50' intervals:
  - a. Right-of-way lines
  - b. Edge of Pavement lines.
2. Before grading is started, the entire right of way shall be cleared of all stumps, roots, brush, and other objectionable material. All ledge, large boulders, and tree stumps shall be removed from the right of way.
3. All organic material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils that have been identified by the Town Engineer as not suitable for roadways, the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below.
4. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than four feet vertical to one foot horizontal is permitted.
5. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right of way prior to paving.

C. Bases and Pavement

1. Bases.

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

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/4 inch	25-70%
No 40	0-30%
No 200	0-7%
3 inch	100%

Aggregate for the subbase shall contain no particles of rock exceeding four inches in any dimension.

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

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/2 inch	45-70%
1/4 inch	30-55%
No 40	0-20%
No 200	0-5%
3 inch	100%

Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.

2. Pavement Joints. Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
3. Pavement.
  - A. Minimum standards for the base layer of pavement shall be the M.D.O.T. specifications for plant mix grade B with an aggregate size no more than one-inch maximum.
  - B. Minimum standards for the surface layer of pavement shall meet the M.D.O.T. specifications for plant mix grade C with an aggregate size no more than ¾ inch maximum.
  - C. Street Names, Signs and Lighting. Streets that join and 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 Board. No street name shall be the common given name of a person. The developer shall reimburse the Municipality for the costs of installing street name, traffic safety and control signs. Street lighting shall be installed as approved by the Board.
  - D. Cleanup. Following street construction, the developer or contractor shall conduct thorough clean up of stumps and other debris from the entire street right-of-way. If onsite disposal of the stumps and debris is proposed, the site shall be indicated on the Plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.
  - E. Certification of Construction. "As built" plans may be requested by the Board. Upon completion of street construction and prior to a vote by the Municipal Officers to submit a proposed public way to the legislative body, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Municipal Officers at the expense of the applicant, certifying that the proposed way meets or exceeds the design and construction requirements of these regulations.

#### **11.4 Storm Water Management Design Standards.**

- A. Adequate provision shall be made for disposal of all storm water generated within the subdivision, and drained ground water, through a management system of swales, culverts, underdrains, and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains.
  1. Where a subdivision is traversed by a stream, river, or subsurface drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins or other means of channeling surface water within the subdivision and over other properties. A Registered Professional Engineer shall design this stormwater management system.
  2. Drainage easements for existing water-courses or proposed drainage ways shall be provided at least thirty feet wide, conforming substantially with the lines of existing natural drainage.
  3. 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 and the 25-year, 24-hour duration, frequencies, based on rainfall data for Bangor, Maine. When the subdivision discharges directly to a major water body, peak discharge may be increased from predevelopment levels provided downstream drainage structures are suitable sized.
  4. The minimum pipe size for any storm drainage pipe shall be 28 inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

- B. The storm water management system shall be designed to accommodate upstream drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% for potential increases in upstream runoff.
- C. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage.
- D. Catch basins shall be installed where necessary and located at the curb line.
- E. Inlets and outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity. Wherever the 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.
- F. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.
- G. Storm drainage construction standards shall be the same as M.D.O.T. standards for storm drainage construction.

**11.5 Pollution.** The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- A. The elevation of the land above sea level and its relation to the 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 effect on effluents;
- D. The availability of streams for disposal of effluents; and
- E. The applicable state and local health and water resource rules and regulations.

## **ARTICLE XII – PERFORMANCE GUARANTEES**

**12.1 Types of Guarantees.** With submittal of the application for Final Plan approval, the subdivider 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:

- A. Either a certified check payable to the Town 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 Town issued by a surety company, approved by the Municipal Officers or Town Manager;
- C. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers or Town Manager; or
- D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The Board with the advice of the Town Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney shall determine the conditions and amount of the performance guarantees.

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

**12.3 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 subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount withdrawn to complete the required improvements.

**12.4 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 subdivider, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

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

**12.6 Conditional Agreement.** The Board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that no more than four lots may be sold or built upon until either:

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

Notice of the agreement and any conditions shall be on the Final Plan that is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 12.8.

**12.7 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 that 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.

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

**12.9 Default.** If, upon inspection, the Town Engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Code Enforcement Officer, the municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

**12.10 Improvements Guaranteed.** Performance guarantees shall be tendered for all improvements required by Section 10.7 of these regulations and for the construction of the streets.

### **ARTICLE XIII – WAIVERS**

**13.1 Where the Board makes written findings of fact** that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical



development, provided the public health, safety and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, the Zoning Ordinance, or these regulations, and provided the criteria of the State Subdivision Law are met.

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

**13.3 In granting waivers** to any of these regulations in accordance with Sections 13.1 and 13.2, the Board shall require such conditions as will assure the objectives of these regulations are met.

**13.4 Waivers to be shown on Final Plan.** When the Board grants a waiver to any of the standards of these regulations, the final Plan shall indicate the waivers granted and the date on which they were granted.

#### **ARTICLE XIV – APPEALS**

**14.1** An aggrieved party may appeal any decision of the Board under these regulations to the Town of Brooks Appeals Board within thirty (30) days.

#### **ARTICLE XV – Interpretation of the Ordinance**

**15.1** The Planning Board shall be responsible to guide the applicant through the ordeals entailed in this ordinance. The Planning Board shall explain each step as they feel is sufficient.

**15.2** The CEO is responsible to confront those who do not follow the standards contained in this ordinance.

**15.3** Any person who decides the Planning Board or Code Enforcement Officer has made an error shall after first consulting the offended party, take concerns to the Board of Appeals. If the Board of Appeals finds that the Planning Board or CEO erred in his/her/their interpretation of the ordinance, it shall modify or reverse the action accordingly. An appeal may only be reviewed if it is made within 6 months of the offense. If there is more than one offense, the date of the first offense is the date to guide the time frame. If more than 6 months has transpired, an appeal may still be reviewed if a majority of the Appeals Board votes to accept it.

#### **ARTICLE XVI – SEVERABILITY**

**16.1** The invalidity of any section of this ordinance shall not be held to invalidate any other section or provision of this ordinance.

#### **ARTICLE XVII – AMENDMENTS TO THE ORDINANCE**

**17.1** The Municipal Officers or the Planning Board may initiate amendments to the ordinance.

**17.2** No proposed amendments to this ordinance shall be referred to the Town Meeting until the Municipal Officers have held a public hearing on the proposal, notice of which shall be posted at least fourteen (14) days prior to such hearing and advertised in a newspaper of general circulation in the Municipality at least two (2) times with the date of the first publication being at least prior to the hearing. The proposed amendment shall be adopted by a simple majority vote of the Town Meeting.

**Affective Date:** This ordinance shall be in affect the date it is accepted by the Town at a Special Town meeting or the Annual Town Meeting.

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