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SUBDIVISION ORDINANCE
ANDOVER, MAINE

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SUBDIVISION ORDINANCE
ANDOVER, MAINE

AMENDMENTS

1) ARTICLE III – DEFINITIONS
Page 6 – “SUBDIVISION”

... All lots of less than 500 acres shall be considered as lots within the proposed subdivision unless exempted by state law.

Proposed change;

... All lots shall be considered as lots within the proposed subdivision unless exempted by state law.

2) APPENDIX A

Page 5-Ss 4404 REVIEW CRITERIA

Proposed addition, page 7;

19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located; and
20. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred or the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

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

Revisions made and approved at Special Town Meeting on November 22nd, 2005

Elaine Morton
Elaine Morton, Town Clerk

SUBDIVISION ORDINANCE ANDOVER, MAINE

ARTICLE I - PURPOSES

The purpose(s) of these regulations are to assure the comfort, convenience, safety, health and welfare of the people of the Town of Andover, Maine, 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 Andover, Maine, the Planning Board shall consider the following 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 review criteria of Title 30-A, M.R.S.A. §4404, see Appendix A for the review criteria.

ARTICLE II - AUTHORITY AND ADMINISTRATION

2.1 Authority

- A. These standards have been prepared in accordance with the provisions of Title 30 M.R.S.A., Chapter II, Subsection IV and Title 30-A M.R.S.A., Section 3001 (Home Rule).
- B. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Andover, Maine."

2.2 Administration

- A. The Planning Board of the Town of Andover, hereinafter called the Board, shall administer these standards.
- B. The provisions of these standards shall pertain to all land proposed for subdivision, as defined by this Ordinance within the boundaries of the Town of Andover.

ARTICLE III - DEFINITIONS

In general, words and terms used in this Ordinance have customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Cluster Development: A development or subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space owned in common by lot/unit owners, the Town or a land conservation organization.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance for a Final Plan, or by a vote by 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 or Policy Statement: Any part or element of the overall plan or policy for development of the municipality as defined in M.R.S.A. Title 30-A, Section 4301.

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

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: A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, bathing and sanitary facilities; Includes single-family houses, and the units in a duplex, apartment house, multi-family dwellings, and residential condominiums.

Final 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 recorded at the Registry of Deeds.

Freshwater Wetland: Freshwater wetland means fresh water 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 of wetland vegetation typically adapted for life in saturated soils; and
- b. Not considered part of 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.

High Intensity Soil Survey: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits and their evaluation 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 once every 100 years (that has a one percent chance of occurring in any year).

Mobile Home Park: A parcel of land under unified ownership approved by the municipality for the placement of three or more manufactured homes.

Mobile Home Park Lot: 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.

Normal High Water Elevation of Inland Waters: That line on the shores of banks on nontidal waters which is apparent because of the continuous different character of the soil or the vegetation due to the prolonged action of the water. Relative to vegetation, it is that line where the vegetation changes from predominantly aquatic to predominantly terrestrial (by way of illustration, aquatic vegetation includes, but is not limited to, the following plants and plant groups: Water lily, pond lily, pickerelweed, cattail, wild rice, sedges, rushes, and marsh grasses; and terrestrial vegetation includes but is not limited to the following plants and plant groups: upland grasses, aster, lady slipper, wintergreen, partridge berry, sassaparilla, pines, cedars, oaks, ashes, alders, elms, and maples). In places where the shore or bank is of such character that the high water mark cannot be easily determined, (rockslides, ledges, rapidly eroding or slumping banks) the normal high water elevation shall be estimated from places where it can be determined by the above method.

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

Manufactured Housing: Means a structural unit or units designated 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 sq.ft., 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 contained in the unit;

- a) This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, United States Code, Title 42, Section 5401, et.seq.; and
- 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.

Net Residential Acreage: The total acreage available for the subdivision, and shown on the proposed subdivision plan, minus the area for streets or access and the areas which are unsuitable for development as outlined in Section 10.3.

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

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

Person: Includes a firm, association, organization, partnership, trust, company, or corporation, 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 and utility systems, and the retention of the natural characteristics of the land.

Planning Board: The Planning Board of the Town of Andover created under Title 30-A M.R.S.A., Section 3001.

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 effects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

Stream, River or Brook: River, stream or brook means a channel between defined banks, including the floodway and associated floodplain wetlands where the channel is created by the action of the surface water and characterized by the lack of upland vegetation or presence of aquatic vegetation and by the presence of a bed devoid of topsoil containing waterborne deposits on exposed soil, parent material or bedrock.

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.

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

Street Classification:

Arterial Street: A major thoroughfare which serves as a major traffic way for travel between and through the municipality.

Collector Street: A street servicing at least fifteen lots or dwelling units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Industrial or Commercial Street: Streets servicing industrial or commercial uses.

Minor Street: A street servicing less than fifteen lots or dwelling units.

Private Right-of-Way: A vehicular access way serving no more than two dwelling units.

Subdivision: The division of a tract or parcel of land into three or more lots as defined by State law and in addition shall include developments where there are

three or more units involved such as mobile home parks, multiple family housing, condominiums, shopping centers and industrial parks. All lots shall be considered as lots within the proposed subdivision unless exempted by State law.

Subdivision, Major: Any subdivision containing more than four lots, dwelling units, or units in a shopping center or similar commercial establishment or any subdivision containing a proposed street.

Subdivision, Minor: Any subdivision containing not more than four lots, dwelling units, or units in a shopping center or similar commercial establishment 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 landowners.

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.
- 4.3 **Joint Meetings.** If any portion of the proposed subdivision crosses the boundary of an adjacent municipality, the Planning Board shall meet jointly with that municipality's Planning Board to discuss the application.

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 of on-site inspection.
- 5.2 **Submission.** The Preapplication Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand pencilled 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 acres in size.
- 5.3 **Contour Interval and On-Site Inspection.** Within thirty days, the Board shall determine and inform the applicant in writing of the required contour interval on the Preliminary Plan, or Final Plan in the case of a Minor Subdivision, and hold an on-site inspection of the property.
- 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.R.S.A. Section 302.

ARTICLE VI - MINOR SUBDIVISIONS

- 6.1 **General.** The Board may require, where it deems it necessary for the protection of public health, safety, and welfare, that a Minor Subdivision comply with all or any of the submission requirements for a Major Subdivision.
- 6.2 **Procedure.**
- A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall approximate the layout shown on the Sketch Plan, plus any recommendations made by the Board.
 - B. All applications for Final Plan approval for Minor Subdivision shall be accompanied by an application fee of \$80.00 payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the additional costs of advertising and postal notification.

- C. Upon receipt of an application for approval of a Minor Subdivision, the Board shall notify in writing all owners of abutting property to the proposed Subdivision.
- D. The subdivider, or his 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. If the Board decides to hold a public hearing, it shall hold the hearing within thirty 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. Within thirty days of a public hearing, or within sixty days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

6.3 Submissions: The subdivision plan for a Minor Subdivision shall consist of two reproducible, stable based transparent originals, one to be recorded at the Registry of Deeds, the other to be filed at the Town Office and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Three copies of all information accompanying the plan shall be submitted.

The application for approval of a Minor Subdivision shall include the following information:

- A. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the Assessor's Map and Lot Numbers.
- B. A 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. The plan shall indicate the type of monument set or found at each lot corner.

- ✓ C. A copy of the deed from which the survey was based. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- ✓ D. A copy of any deed restrictions intended to cover all or part of the lots in the subdivision.
- ~~W~~ E. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
- ✓ F. Indication of the type of water supply system(s) to be used in the subdivision. If a right-of-way(s) or an easement(s) is (are) needed, copies of said right-of-way(s) and easement(s) shall be supplied to the Board.
- When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the plans for extensions where necessary. Where the district's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, shall be submitted.
- ✓ G. The date the Plan was prepared, true and magnetic north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and the names of adjoining property owners.
- ✓ H. A copy of the portion of the county Soil Survey covering the subdivision.
- didn't want* I. Contour lines at the interval specified by the Planning Board, showing elevations in relation to Mean Sea Level.
- NA* J. 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.
- NA* K. The location and type of zoning boundaries and districts as required by the Mandatory Shoreland Zoning Act, Title 38, M.R.S.A. Sections 435-448 within the proposed subdivision and within one half mile of the proposed subdivision boundaries.
- ✓ L. The location of any existing or potential fresh water wetlands.
- ✓ M. The location of river, stream or brook within or abutting the proposed subdivision.

- N. The location and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the Town of Andover.
- v O. Any portion of the subdivision which is located within the watershed of a lake or pond shall be identified.

ARTICLE VII - PRELIMINARY PLAN FOR MAJOR SUBDIVISION

7.1 Procedure

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit at a regular scheduled Board meeting an application for approval of a Preliminary Plan; failure to do so shall 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 Preliminary Plan approval for a Major Subdivision shall be accompanied by an application fee of \$15.00 per lot, dwelling unit, or unit contained in a shopping center or similar commercial establishment payable by check to the municipality. In addition, the applicant shall pay a fee of \$25.00 per lot, dwelling unit, or unit contained in a shopping center or similar commercial establishment to be deposited in a special account designated for that subdivision application, to be used by the 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 an additional \$10 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$10 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 final decision on the subdivision application by the Board shall be returned to the applicant. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- D. 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.

- E. Upon determination of a complete preliminary plan, the Planning Board shall notify in writing all owners of all abutting property to the proposed subdivision.
- F. 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 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 days of receipt of a complete 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; and
 3. The amount of all performance guarantees which it will require as prerequisite to the approval of the Final Plan.
- 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. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

7.2 Submissions

- A. **Location Map:** The Preliminary Plan shall be accompanied by 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. The Location Map shall show:

1. Locations and names of existing and proposed streets.
2. 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.
3. Shoreland Zoning Boundaries as required by the Mandatory Shoreland Zoning Act: Title 38, M.R.S.A., Sections 435-448.

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 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 of 8 1/2 by 11 inches, and all accompanying information shall be provided to each Board member no less than seven days prior to the meeting. The following information shall either be 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 to be subdivided.
- ✓ 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. The plan shall indicate the type of monument set or found at each lot corner.
- ✓ 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 currently 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, watercourses, vegetative cover type, and other essential existing physical features.

- ✓ 8. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface sewage 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. 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 and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
- ✓ 11. The names and addresses of owners of record of adjacent property, including any property directly across an existing public street from the subdivision.
- 1 12. The location and size of existing and proposed sewers, water mains, culverts and drainage ways on or adjacent to the property to be divided.
- 13. 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.
- N/A 14. The width and location of any streets or public improvements within the subdivision.
- ✓ 15. The proposed lot lines with approximate dimensions and lot areas.
- N/A 16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- N/A 17. The location of any open space to be preserved and an indication of its improvement and management.
- N/A 18. A soil erosion and sedimentation control plan endorsed by the County Soil and Water Conservation District.
- will go 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 report by a Registered Soil Scientist indicating the suitability of soil conditions for those uses.

20. A plan for the disposal of surface drainage waters, prepared by a Registered Professional Engineer.
- NR 21. 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.
- NR 22. The location of any existing or potential fresh water wetlands.
- NR 23. The location of river, stream or brook within or abutting the proposed subdivision.
- NR 24. The location and nature of significant wildlife habitat identified by the Maine Department of Inland Fisheries and Wildlife or the Town of Andover.
- NR 25. Any portion of the subdivision which is located within the watershed of a lake or pond shall be identified.

ARTICLE VIII - FINAL PLAN FOR MAJOR SUBDIVISION

8.1 Procedure

- 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. If the application for 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. All applications for Final Plan approval for Major Subdivision shall be accompanied by an application fee of \$20.00 per lot, dwelling unit or unit contained in a shopping center or similar commercial establishment payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification.
- C. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
- NO / D. 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.
- E. 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, Natural Resource Protection Act, or if a Wastewater Discharge License is needed.
2. The servicing water utility, if an existing public water service is to be used.
3. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
4. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.

F. A public hearing may be held by the Planning Board within thirty 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 Planning Board shall notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten days prior to the hearing.

G. The Planning 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 Planning 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, the Board shall have a joint meeting with the Planning Board of the adjacent municipality to discuss the Plan.

J. The Board, within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, shall make findings of fact, and conclusions relative to the standards contained in Title 30, M.R.S.A., Section 4404 and in this Ordinance. If the Board finds that all standards of the Statute and these regulations have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute and these regulations have not been met, the Board shall either

deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

- 8.2 **Submissions:** The Final Plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than seventy-five acres may be drawn at a scale of not more than two hundred feet to the inch. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by the Board. One reproducible, stable based transparent original to be recorded at the Registry of Deeds, and three copies of the plan shall be submitted. The subdivider may, instead submit one reproducible stable based transparent original of the Final Plan and one Recording Plan with three copies of the Final Plan. In addition, one copy of the Final Plan, reduced to a size of 8 1/2 by 11 inches, and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting.

The application for approval of the Final Plan shall include the following information.

- A. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot Numbers.
- B. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments. The plan shall indicate the type of monument set or found at each lot corner.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. Indication of the type of sewage disposal to be used.
- E. Indication of the type of water supply system(s) to be used in the subdivision.
 1. When water is to be supplied by public water supply, a written statement from the servicing Water District shall be submitted indicating the District has reviewed and approved the water system design.
 2. When water is to be supplied by private wells evidence of adequate ground water supply and quality shall be submitted.

- F. The date the Plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
- G. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- H. 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 radll, length of curves and central angles of curves, tangent distances and tangent bearings for each street shall be included.
- I. The width and location of any streets or public improvements within the subdivision.
- J. 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.
- K. A list of construction and maintenance items with cost estimates that will be completed by the developer prior to the sale of lots. Upon request of the Board, the applicant shall list 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

Upon request by the Board, the developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

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- M. 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?

8.3 Final Approval and Filing

- A. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Subdivision Plan within the Town of Andover.
- B. Upon findings of fact and determination that all review criteria contained in Title 30, M.R.S.A., Section 4404 and this Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board 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. 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 Section 9.1.C. The Board shall make findings that the revised plan meets the review criteria of Title 30-A, M.R.S.A., Section 4404 and this Ordinance. 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.
- D. 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.

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 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 complement of improvements and utilities required by the Board.
- 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 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 which 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 townway 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 Town of Andover Street design and construction requirements. 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 division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this Ordinance.
- B. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. No person, firm, corporation or other legal entity may convey, any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
- D. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by 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 a Final Plan has not been approved by the Board.
- 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 which 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 municipality 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. In any subdivision larger than thirty-five acres, or more than twenty lots or dwelling units, the developer shall provide up to ten percent of his total area as open space. In any subdivision thirty-five acres or less, or containing twenty lots or dwelling units or less, the Board may request the developer to provide up to ten percent of his total area as open space.
- B. Land reserved for open space purposes shall be a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Site selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
- C. Reserved land acceptable to the Board and subdivider may be dedicated to the municipality as a condition of approval.
- D. Land reservation shall be calculated on a basis of 1,300 sq.ft. per dwelling unit proposed or three acres per 100 dwelling units.
- 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 inch diameter breast height (4.5 feet above ground), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic historic or environmentally significant areas. Cutting of trees on the northerly border of lots should be avoided as far as possible, to retain a natural wind buffer.

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 minimum lots areas required in Section 10.5.A..

- A. Land which is situated below the normal high water mark of any water body.
- B. Land which is located within the 100 year frequency floodplain 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 show 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 which is part of a right-of-way, or easement, including easements.
- D. Land which has a water table within ten inches of the surface for at least three months of the year as identified by the County Soil Survey.
- 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. Maintenance obligations of the easement shall be included in the written description of the easement.

0.5 Lots

- A. Lots of single-family residences shall be a minimum of * 80,000 square feet in size and have a minimum of 150 feet of frontage on a public or privately owned road. Lots for multi-family development shall comply with the Minimum Lot Size Law (title 12, M.R.S.A. Section 4807-A) and have minimum road frontage of 150 feet. The lot configuration should be designed to maximize the use of solar energy on building sites with suitable orientation.
- B. Lot configuration and area shall be designed 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. Wherever possible, side lot line shall be perpendicular to the street.

*(10.5 sec. A - changed 1993 at Town Mtg. from one acre to 80,000 sq. ft)

- D. 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 subdivision. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
- E. 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. The ratio of lot length to width shall not be more than four to one. All lots shall have a minimum of 150 feet of road frontage.
- F. 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 lot numbering shall be reviewed by the Postmaster, and his comments considered by the Board.

10.6 Utilities

- A. Underground utilities shall be installed prior to the installation of the final gravel base of the road.
- B. The size, type and location of street lights, electric 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 this Ordinance.

A. Monuments

- 1. All subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, such as steel pins or by other means as approved by the Board.

B. Water Supply

- 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 an 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 supply system, the Planning Board may allow the use of individual wells or a private community water system.
 - a. 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.
 - b. At the recommendation of the Fire Chief and when an adequate water supply is available within the boundaries of the proposed subdivision, the subdivider shall provide an easement to the Municipality to access said water. Said easement shall be a minimum of 36 feet in width and shall be used by the Municipality for firefighting purposes only.

C. Sewage Disposal

1. 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.
2. In no instance shall a disposal area be permitted on soils or on a lot which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

D. Surface Drainage

1. Where a subdivision is traversed by a stream, river, or surface water drainage way, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts,

catch basins or other means of channeling surface water within the subdivision and over other properties. This stormwater management system shall be designed by a Registered Professional Engineer.

2. Drainage easements for existing watercourses or proposed drainage ways shall be provided and indicated on the plan at least thirty feet wide, conforming substantially with the lines of existing natural drainage.
3. A storm water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements shall be submitted.

10.8 Land Features

- A. For residential subdivisions, 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 silvicultural activity, landscaping, and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision.
- C. To prevent soil erosion of shoreline areas, tree cutting shall be done in compliance with State of Maine Shoreland Zoning Laws.

10.9 Dedication and Maintenance of Common Open Space and Services

- A. All common land shall be owned jointly or in common by the owners of the dwelling units by means of a homeowners association, by an association which has as its principle purpose the conservation or preservation of land in essentially its natural condition, or by the municipality.
- B. Further subdivision of the common land or its use for other than noncommercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to noncommercial recreational or conservation uses may be erected on the common land.
- C. The common open space shall be shown on the Final Plan with appropriate notation on the plan to indicate that:
 1. It shall not be used for future building lots; and
 2. A part or all of the common open space may be dedicated for acceptance by the municipality.

- D. 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 principle 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 which is included or partially included in the flood hazard area.

10.11 Cluster Developments

- A. **Purpose:** The purpose of these standards are to permit greater flexibility and consequently more creative and imaginative design than generally is possible under other provisions of this Ordinance. It is intended to further promote more economical and efficient use of land while providing a harmonious variety of housing choices and preservation of natural qualities and open space.

- B. **Basic Requirements:** The Planning Board, in reviewing and approving development proposals containing an area of at least 10 acres, may modify the minimum requirements for lot area, lot width, road frontage and yard space which would otherwise apply pursuant to existing Town ordinances and regulations provided that the following standards are met:

1. Overall density of the development shall not exceed the number of units on land suitable for buildings which would otherwise be allowed if the land were subdivided in a conventional manner.
2. Maximum reduction in size of individual lot shall be 50%.
3. Maximum reduction in road frontage requirements shall be 50%. Shore frontage shall not be reduced.
4. Residual open space created by reduction in lot sizes shall be permanently and legally preserved as open space. Land dedicated to permanent open space shall be in such condition, size and shape as to be readily usable for recreation or conservation. The developer of any cluster development shall make suitable provisions for the permanent maintenance of open space areas, by one of the following methods:
 - a. Dedication of such open space to public use, if the Town or other public agency has indicated, it will accept such dedication;

- b. Retention of ownership and responsibility for maintenance of such open space; or
- c. Provide for and establish one or more organizations for the ownership and maintenance of all common open space and property. Such organization shall be either a nonprofit homeowners corporation or a community open space trust. If a homeowners corporation or open space trust is formed, it shall be governed by the following: (1) the organization shall be organized by the developer and operating, with financial subsidization by the developer if necessary, before the sale of any lots within the development; (2) membership in the organization shall be mandatory for all purchasers of homes therein and their successors; (3) the organization shall be responsible for maintenance of common open space and property and for insurance and taxes on such common open space and property; (4) the members of the organization shall share equitably the cost of maintaining and developing common open space and property in accordance with procedures established by them; and (5) the organization shall administer the common facilities and maintain the common open space.

C. Procedures for application and review of cluster development proposals.

- 1. The Planning Board shall review any proposal for a cluster development as provided by this Subdivision Ordinance.
- 2. In addition to information required in other sections of this Ordinance, the following will be provided in the application:
 - a. A legal description of the total site proposed for development including a statement of present and proposed ownership, present zoning, property tax map reference numbers, and the names and addresses of adjacent property owners.
 - b. A description of the character of the proposed development and the rationale behind the assumptions and choices made regarding the development.
 - c. A development schedule indicating the approximate date when construction of the cluster development can be expected to begin and be completed.
 - d. A statement of the applicant's intention with regards to the future selling or leasing of all or portions of the cluster development such as land areas, dwelling units, etc.

- e. Quantitative data for the following: total number and type of dwelling units; parcel size; proposed lot coverage of buildings and structures, approximate gross and net residential densities; total amount of improved open space; total amount of unimproved open space.
- f. Tentative proposal for the maintenance and conservation of common open space.
- g. The conditions of dedication of any parcels of land to be dedicated to public use.

D. **Common Land Maintenance.** After final approval has been granted by the Planning Board, the Selectmen shall review all provisions for upkeep of common or public land or facilities within the cluster development. In cases where land or facilities are to be deeded over to the Town, said transactions shall be finalized or a date for completion of improvements on said land or facilities and the finalizing of said transactions shall be set, and approval shall be granted. In cases where common land or facilities are not to be deeded to the Town, the Planning Board shall grant final approval if the conditions of ownership and maintenance are consistent with those conditions set out and approved in the application.

10.12 Mobile Home Parks. Proposed new mobile home parks and expansions to existing mobile home parks which would constitute a subdivision as defined shall comply with the provisions of this Ordinance.

- A. The mobile home park will be designed so that each mobile home is placed on a defined lot clearly marked having access from a roadway within the mobile home park. The roadways and lots will be laid out to provide safe and convenient access to every mobile home lot. The lot layout will be designed so that the vehicular access to each lot is from the internal road system of the mobile home park and not from existing public streets.
- B. Each lot within a mobile home park shall be of such dimensions to provide for two off-street parking spaces. Each park space shall contain a minimum of 200 sq.ft. The Planning Board may require additional parking areas within the mobile home park.
- C. Privately owned roads within the mobile home park shall be designed by a Professional Engineer, registered in the State of Maine, and shall be built according to accepted engineering standards.
- D. Roads shall have a minimum right-of-way of 23 feet, of which 20 feet shall be paved.

- E. Lots served by individual subsurface sewage disposal system shall meet the following:

Minimum lot area 20,000 sq.ft.
Minimum lot width 100 feet

- Lots served by a central subsurface waste water disposal system shall meet the following:

Minimum lot area 12,000 sq.ft.
Minimum lot width 75 feet.

The overall density of a mobile home park served by a central subsurface sewage disposal system shall be no greater than one unit per 20,000 sq.ft. of total park area.

Where lots front on a curved right-of-way or are served by a driveway, the frontage requirement shall be measured in a straight line perpendicular to the setback line.

Lots within a shoreland zoning district shall meet the lot area, lot width, setback and shore frontage requirements for that district.

- F. A 50 foot wide buffer strip shall be provided along all property boundaries that:

1. Abut residential land which has a gross density of less than half of that proposed in the park; or
2. Abut residential land that is zoned at a density of less than half of that proposed in the park.

Further, no structures, streets or utilities may be placed in the buffer strip except that they may cross a buffer strip to provide services to the park.

- G. No lot in a mobile home park may be sold or conveyed without the prior approval of the Planning Board. Any such lot sold or conveyed shall meet the lot size requirement of the district in which it is located.

ARTICLE XI - STREET AND STORM DRAINAGE DESIGN STANDARDS

11.1 General Requirements

- A. The Board shall not approve any subdivision plan unless proposed streets, public or private, and storm water management systems are designed in accordance with applicable ordinances of Andover and the specifications contained in this Ordinance. Approval of the Final Plan by the Board, shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement.
- B. Subdividers shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets. The plans shall include the following information:
 - 1. Date, scale and magnetic or true north point;
 - 2. Intersections of the proposed street(s) with existing streets;
 - 3. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks and curbs.
 - 4. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
 - 5. Complete curve data shall be indicated for all horizontal and vertical curves.
 - 6. Turning radii at all intersections.
 - 7. Center line gradients.
 - 8. Location of all existing and proposed overhead and underground utilities, to include but not limited to water, sewer, electricity, telephone, lighting and cable television.
- C. Upon receipt of plans for a proposed public street, the Board shall forward one copy of the Municipal Officers and one copy to the Road Commissioner for review and comment. Plans for streets which are not proposed to be accepted by the Municipality shall be sent to the Road Commissioner for review and comment.

11.2 Street Design Standards

- A. The following design standards shall be met by all streets rather public or private within subdivisions, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.

- B. Streets shall be designed to discourage through traffic within a residential subdivision.
- C. Wherever existing or other proposed streets, topography, and public safety permit, streets shall run in east-west directions to maximize access for solar energy utilization. The character, extent, width, and grade of all streets shall be considered in their relation to existing or planned streets.
- D. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the municipality.
- E. In subdivisions abutting areas designed for commercial use, the street right-of-way and/or pavement width shall be increased on each side by half of the amount necessary to bring the road into conformance with the standards for commercial streets in this Ordinance.
- F. Where a subdivision borders an existing narrow street (not meeting the width requirements of the Town of Andover Standards for Streets. The Plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes". The reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
- G. Where a major subdivision abuts or contains an existing or proposed arterial street, no residential lot may have vehicular access directly on to the arterial street. This requirement shall be noted on the plan and in the deeds of any lot with frontage on the arterial street.
- H. Any subdivision containing 15 dwelling units or more shall have at least two street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. Any street serving 15 dwelling units or more shall have at least two street connections leading to existing public streets, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted.
- I. Streets shall design and construct in accordance with the Town of Andover Standards for Streets Construction.

ARTICLE XII - PERFORMANCE GUARANTEES

- 12.1 Types of Guarantees. With submittal of the application for Final Plan approval, 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
- D. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

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

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 returned to the subdivider and 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 up to 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 which 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 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.

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 departments 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 Private Roads. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

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

- 013R2
- 12.11 Improvements Guaranteed. Performance guarantees shall be tendered for all improvements required by Section 10.7 of these regulations, as well as any other improvements required by the Board.

ARTICLE XIII - WAIVERS ✓

- 13.1 Where the Board makes written findings of fact 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 this Ordinance.
- 13.2 Where the Board makes written findings of fact that due to special circumstances 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 lack connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirements 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.

ARTICLE XIV - APPEALS

- 14.1 An aggrieved party may appeal any decision of the Board under these regulations to Oxford County Superior Court.

ARTICLE XV - VALIDITY AND SEVERABILITY

- 15.1 Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

ARTICLE XVI - CONFLICTS WITH OTHER ORDINANCES

- 16.1 Where the provisions of this Ordinance conflict with the provisions of other ordinances, the provisions of the more stringent ordinance shall prevail.

ARTICLE XVII - EFFECTIVE DATE

- 17.1 This Ordinance shall become effective when enacted by the voters of the Town of Andover.

ARTICLE XVIII - AMENDMENTS

- 18.1 This Ordinance can be amended by a vote at a Town Meeting.

Given unto our hands at said Andover this 20th day of February, 1990, A.D.

Jane C. Rich
Jane C. Rich
Fred B. Emerson
Fred B. Emerson
William Maselli
William Maselli

A True Copy: Attest: Kathy Williamson
Town of Clerk of Andover

Accepted at the Annual Town Meeting on March 3, 1990
by the majority of the voters at the meeting.

APPENDIX A

Title 30-A, Chapter II, Subchapter IV

SUBDIVISIONS

As Effective June 30, 1992

§4401 Definitions.

As is used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. **Densely developed area.** "Densely developed area" means 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.

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

2-A. **Freshwater wetland.** "Freshwater wetland" means 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 of wetland vegetation typically adapted for life in saturated soils; and

B. Not considered part of 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.

3. **Principal Structure.** "Principal structure" means any building or structure in which the main use of the premises takes place.

4. **Subdivision.** "Subdivision means the division of a tract or parcel of land into 3 or more lots within any 5-year period, which period begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" also 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. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:

(1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single-family residence or for open space land as defined in Title 36, section 1102 for a period of at least 5 years prior to the 2nd dividing occurs; or

(2) The division of the tract or parcel is otherwise exempt under this subchapter.

B. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed

subdivision created by a subsequent dividing.

C. A lot of 40 or more acres shall not be counted as a lot, except:

(1) When the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance; or

(2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality's shoreland zoning ordinance.

D. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor in any transfer or gift within this paragraph is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this subsection.

E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.

F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.

G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.

H. Nothing in this subchapter may be construed to prevent a municipality from enacting an ordinance under its home rule authority which expands the definition of subdivision to include the division of a structure for commercial or industrial use or which otherwise regulates land use activities.

I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph D, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

5. New structures or structures. "New structure or structures" includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter.

6. Tract or parcel of land. "Tract or parcel of land" means all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road.

7. Outstanding river segments. In accordance with Title 12, section 402, "outstanding river segments" means:

A. The Aroostook River from the Canadian Border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S.

- B. The Carrabassett River from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line;
- C. The Crooked River from its inlet into Sebago lake to the Waterford and Albany Township town line;
- D. The Damariscotta River from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills;
- E. The Dennys River from the Route 1 Bridge to the outlet of Meddybemps Lake, excluding the western shore in Edmunds Township and No. 14 Plantation;
- F. The East Machias River, including the Maine River, from 1/4 of a mile above the Route 1 bridge to the East Machias and T.18, E.D., B.P.P. town line, from the T.19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander town line to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond;
- G. The Fish River from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake;
- H. The Kennebago River from its inlet into Cupsuptic Lake to the Rangely and Lower Cupsuptic Township town line;
- I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 Bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake;
- J. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line;
- K. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville;
- L. The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town lines, excluding Beddington Lake;
- M. The Penobscot River, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line;
- N. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line;
- O. The Pleasant River from the bridge in Addison to the Columbia and T.13, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake;
- P. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River;
- Q. The Saco River from the Little Ossipee River to the New Hampshire border;
- R. The St. Croix River from the Route 1 bridge in Calais to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage;
- S. The St. George River from the Route 1 bridge in Thomaston to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond;

T. The St. John River from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line;

U. The Sandy River from the Kennebec River to the Madrid and Township E town line;

V. The Sheepscot River from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China;

W. The West Branch of the Pleasant River from the East Branch in Brownville to the Brownville and Williamsburg Township town line; and

X. The West Branch of the Union River from the Route 131 bridge in Mariaville to the outlet of Great Pond in the Town of Great Pond.

§4402. Exceptions

This chapter does not apply to:

1. Previously approved subdivisions. Proposed subdivisions approved by the planning board or the municipal officials before September 23, 1971 in accordance with the laws then in effect;
2. Previously existing subdivisions. Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law; or
3. Previously recorded subdivisions. A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971.

§4403 Municipal review and regulation.

This section governs municipal review of proposed subdivisions.

1. Municipal reviewing authority. The municipal reviewing authority shall review all requests for subdivision approval. On all matters concerning subdivision review, the municipal reviewing authority shall maintain a permanent record of all its meetings, proceedings and correspondence.
 - A. Joint meetings. If any portion of a subdivision crosses municipal boundaries, the reviewing authorities from each municipality shall meet jointly to discuss the application.
2. Regulations; review procedure. The municipal reviewing authority may after a public hearing, adopt, amend or repeal additional reasonable regulations governing subdivisions which shall control until amended, repealed or replaced by regulations adopted by the municipal legislative body. The municipal reviewing authority shall give at least 7 days' notice of this hearing.
 - A. The regulations may provide for a multi-stage application or review procedure consisting of no more than 3 stages:

(1) Preapplication sketch plan;

(2) Preliminary plan; and

(3) Final plan.

Each stage shall meet the time requirements of subsections 4 and 5.

• **Application; notice; completed application.** This subsection governs the procedure to be

followed after receiving an application for a proposed subdivision.

A. When an application is received, the municipal reviewing authority shall give a dated receipt to the applicant and shall notify by mail all abutting property owners of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project.

B. Within 30 days after receiving an application, the municipal reviewing authority shall notify the applicant in writing either that the application is a complete or, if the application is incomplete, the specific additional material needed to complete the application.

C. After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.

4. **Public hearing; order.** If the municipal reviewing authority decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within 30 days after determining it has received a complete application. The municipal reviewing authority shall have notice of the date, time and place of the hearing:

A. Given to the applicant; and

B. Published, at least 2 times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be least 7 days before the hearing.

5. **Decision; time limits.** The municipal reviewing authority shall, within 30 days of a public hearing or, if no hearing is held within 60 days of determining it has received a complete application or within any other time limit that is otherwise mutually agreed to, issue an order:

A. Denying approval of the proposed subdivision;

B. Granting approval of the proposed subdivision; or

C. Granting approval upon any terms and conditions that it considers advisable to:

(1) Satisfy the criteria listed in section 4404;

(2) Satisfy any other regulations adopted by the reviewing authority; and

(3) Protect and preserve the public's health, safety and general welfare.

6. **Burden of proof; findings of fact.** In all instances, the burden of proof is upon the person proposing the subdivision. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in subsection 5.

7. **Conditioned on variance.** If the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance, the subdivider must comply with section 4406, subsection 1, paragraph B.

4404. Review criteria

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine at:

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

- A. The elevation of 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;
2. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
 3. Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
 4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
 5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
 6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
 7. Municipal solid waste and sewage disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste and sewage, if municipal services are to be utilized;
 8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
 9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;
 10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;
 11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
 - A. 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.
 - (1) 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.
 - (2) The frontage and set-back provisions of this paragraph do not apply either within areas

zoned as general development or its equivalent under shoreland zoning, Title 38, 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 section 4401, subsection 1, on September 23, 1983;

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

13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat 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;

14. Freshwater wetlands. 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;

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

16. Storm Water. The proposed subdivision will provide for adequate storm water management;

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

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

§4405. Access to direct sunlight. (See 19 & 20 on Next page)

The municipal reviewing authority may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and set-back requirements or other permissible forms of land use controls.

§4406. Enforcement; prohibited activities.

The Attorney General, the municipality or the planning board of any municipality may institute proceedings to enjoin a violation of this subchapter.

1. Sales or other conveyances. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and approved under Title 38, chapter 3, subchapter I, article 6, where applicable, and subsequently recorded in the proper registry of deeds.

A. No register of deeds may record any subdivision plat or plan that has not been approved under this subchapter. Approval for the purpose of recording must appear in writing on the plat or plan. All subdivision plats and plans required by this subchapter must contain the name and address of the

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person under whose responsibility the subdivision plat or plan was prepared.

B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.

(1) In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must:

- (a) Indicate the name of the current property owner;
- (b) Identify the property by reference to the last recorded deed in its chain of title; and
- (c) Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.

(2) The variance is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or approval under Title 38, chapter 3, subchapter I article 6, where applicable, whichever date is later, or the variance is void.

B-1. Whenever the subdivision is exempt from title 38, chapter 3 subchapter I article 6, because of the operation of Title 38, section 488, subsection 5, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds. The developable land, as defined in title 38, section 488, subsection 5, must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the registry of deeds. This certificate must:

(1) Indicate the name of the current property owner;

(2) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan;

(3) Indicate that an exemption from title 38, chapter 3, subchapter I article 6, has been exercised;

(4) Indicate that the requirements of Title 38, section 488, subsection 5, have been and will be satisfied; and

(5) Indicate the date of notification of the Department of Environmental Protection under Title 38, section 488 subsection 5.

This exemption is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval under this subchapter or the exemption is void.

C. A building inspector may not issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable.

D. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable, shall be penalized in accordance with section 4452.

E. Any person who after receiving approval from the municipal reviewing authority or approval under Title 38, chapter 3, subchapter I, article 6, and recording the plan at the registry of deeds, constructs or develops the subdivision, or transfers any lot, in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the municipal reviewing authority or the Department of Environmental Protection, when applicable, must be penalized in accordance with section 4452.

F. Any person who sells, leases or conveys for consideration any land or dwelling unit in a subdivision approved under this subchapter and exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, shall include in the instrument of sale, lease or conveyance a covenant to the transferee that all of the requirements of Title 38, section 488 subsection 5, have been and will be satisfied.

2. Permanent marker required. No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term "permanent marker" includes but is not limited to, the following:

- A. A granite monument;
- B. A concrete monument;
- C. An iron pin; or
- D. A drill hole in ledge.

3. Utility installation. No public utility, water district, sanitary district or any utility company of any kind may install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials. Following installation of service, the company or district shall forward the written authorization to the municipal officials indicating that installation has been completed.

4. Permit Display. A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on site while work authorized by the permit is being conducted.

407. Revisions to existing plat or plan.

An application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. In reviewing such an application, the municipal reviewing authority shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of section 4404.

5. Recording. If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plat or plan, the register shall:

- A. Indicate on the index for the original plat or plan that it has been superseded by another plat or plan;
- B. Reference the book and page or cabinet and sheet on which the new plat or plan is recorded; and
- C. Ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan.

TOWN OF ANDOVER SUBDIVISION APPLICATION

Subdivision Name: _____

Application No#: _____

APPLICATION INFORMATION

1. Name of Property Owner: _____
Address: _____

2. Name of Applicant: _____
Address: _____

Telephone: _____

3. If applicant is a corporation, check if licensed in Maine:
_____ Yes _____ No and attach a copy of State's Registration

4. Name of applicant's authorized agent: _____
Address: _____

Telephone: _____ Registration #: _____

5. Person and address to which all correspondence regarding this application should be sent to:

6. What legal interest does the applicant have in the property to be developed (ownership, option, purchase and sales contract, etc.)? Attach evidence of interest.

7. What interest does the applicant have in any abutting property? _____

Land Information

8. Location of Property: (from County Registry of Deeds): Book _____ Page _____
(from Tax Maps): Map _____ Lots _____

9. Current zoning of property: _____

10. Is any portion of the property within 250 feet of the high water mark of a pond, river or stream? _____ Yes _____ No

11. Acreage to be developed? _____

12. Indicate the nature of any restrictive covenants to be placed in the deeds. (attach copies)

13. Has this land been part of a prior approved subdivision? _____ Yes _____ No
Or other divisions within the past 5 years? _____ Yes _____ No

14. Identify existing use(s) of land. (farmland, wood lot, etc.)

15. Does the parcel include any water bodies: _____ Yes _____ No

16. Is any portion of the property within a special flood hazard area as identified by the Federal Emergency Management Agency? _____ Yes _____ No

17. List below the names and mailing addresses of property owners within 500 feet of the tract to be subdivided.

Name

Address

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

General Information

18. Proposed name of development _____

19. Number of lots or units _____

20. Anticipated date for construction _____

21. Anticipated date of completion _____
22. Does this development require extension of public infrastructure?
____ Yes ____ No
____ Roads ____ Storm drainage
____ Sidewalks ____ Water lines
____ Sewer lines ____ Fire protection equipment
____ Other _____
23. Estimated cost for infrastructure improvements: \$ _____
24. Identify method of water supply to the proposed development?
____ Individual wells
____ Central well with distribution lines
____ Connection to public water system
____ Other, please state alternative _____
25. Identify method of sewage disposal to the proposed development?
____ Individual septic tanks
____ Central on-site disposal with distribution lines
____ Connection to public sewer system
____ Other, please state alternative _____
26. Identify method of fire protection for the proposed development?
____ Hydrants connected to the public water system
____ Dry hydrants located on an existing pond or water body
____ Existing fire pond
____ Other, please state alternative _____
27. Does the applicant propose to dedicate to the public any streets, recreation or common lands? If any, street(s) ____ Yes ____ No Estimated length _____
Recreation area(s) ____ Yes ____ No Estimated acreage _____
Common land (s) ____ Yes ____ No Estimated acreage _____
28. Does the applicant intend to request waivers of any of the subdivision submission requirements? If yes, list them and state reasons for the request.

(signature of applicant) _____
(date)

To the best of my knowledge, all the above stated information submitted in this application is true and correct.

30. Attach a statement as to how you plan to finance the project. If the costs involve more than normal legal fees and surveying, personal, or corporate statements or a specific letter from a bank or other reliable financing sources are required.

Legal	_____
Surveys	_____
Roads	_____
Sewers	_____
Structures	_____
Water Supply	_____
Landscaping	_____
Erosion Control	_____
Other	_____
TOTAL	_____

29. State below the estimated total cost of the project, as proposed in this application, and itemize major categories, including estimated costs of activities to be devoted to minimizing or preventing adverse effects on the surrounding environment during construction and/or operation of this project.