

**Subdivision Ordinance  
FOR  
NORTH HAVEN, MAINE**

**Proposed Amendments**

**Submitted to the Town of North Haven for their review  
and vote at a Special Town Meeting**

**EFFECTIVE DATE: JANUARY 8, 2013**

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**Key to the Document:**

Text in **Red** indicates new language for the amendment

~~Strikethrough~~ indicates language in the original Ordinance that has been removed.

Text in **Green** indicates new language based on input from the Public Hearing on October 1, 2018

Text in Black is from the original Ordinance

# SUBDIVISION ORDINANCE TOWN OF NORTH HAVEN

## ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA

### 1.1 Purposes.

The purposes of these regulations this Ordinance are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions,
- B. To assure that new development in the Town of North Haven meets the goals and conforms to the policies of the North Haven Comprehensive Plan,
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of North Haven,
- D. To protect the environment and ensure environmental sustainability, and conserve the natural and cultural resources identified in the North Haven Comprehensive Plan as important to the community,
- E. To assure that a minimal level of services and facilities is available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures,
- F. To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality,
- G. To promote the development of an economically sound and stable community, and
- H. To maintain and promote housing opportunities for year-round working populations and first-time home buyers, in part by keeping development costs lower than market-rate housing development projects.

### 1.2 Statutory Review Criteria.

When reviewing any application for a subdivision, the Planning Board shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Zoning Land Use Ordinance and other sections of this Regulation Ordinance have been met, before granting approval. In reviewing an application, the Board shall ensure the proposed project:

- A. Shall not result in undue water or air pollution. In making this determination, ~~it~~ the Planning Board shall at least consider:
  - 1. The elevation of the land above sea level and its relation to the flood plains,
  - 2. The nature of soils and subsoils and their ability to adequately support waste disposal,
  - 3. The slope of the land and its effect on effluents,
  - 4. The proximity of streams for disposal of effluents, and
  - 5. The applicable State and local health and water resources rules and regulations;
- B. Has sufficient water resources available for reasonable and foreseeable needs of the subdivision,

- C. Will not cause an unreasonable burden on an existing public water supply **or on the water supplies of abutting properties, as applicable,**
- D. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results,
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area of an urban compact municipality, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section; as amended for state criteria,
- F. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized,
- G. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized,
- H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline,
- I. Will be in conformance with a duly adopted subdivision regulation or ordinance, Comprehensive Plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans,
- J. That the developer has adequate financial and technical capacity to ensure that the proposed subdivision will meet the standards of this section,
- K. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground or surface waters,
- L. **Indicates whether the subdivision will be located in a flood-prone area,** based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, **as well as** information presented by the applicant. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include, as a condition of plan approval, a requirement 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,
- M. 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,
- N. Any stream or brook within or abutting the proposed subdivision shall be 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,
- O. Shall provide for adequate storm water management,

- P. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, ~~great pond~~ **Fresh Pond** or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1,
- Q. The long-term cumulative effects of the proposed subdivision shall not unreasonably increase ~~great pond's~~ **Fresh Pond's** phosphorus concentration during the construction phase and life of the proposed subdivision,
- R. Lands subject to liquidation harvesting. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the **Planning** Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

## ARTICLE 2 - AUTHORITY AND ADMINISTRATION

### 2.1 Authority.

- A. ~~These standards have~~ **This Ordinance has** been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. ~~These standards have~~ **This Ordinance** shall be known and may be cited as "Subdivision Ordinance of the Town of North Haven, Maine."

### 2.2 Administration.

- A. The Planning Board of the Town of North Haven, hereinafter called the Board, shall administer ~~these ordinances~~ this Ordinance.
- B. The provisions of this Ordinance shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of North Haven, hereinafter called the Town.

### 2.3 Amendments.

- A. This Ordinance may be amended by the Legislative Body of the Town of North Haven.
- B. A public hearing will be held prior to the adoption of any amendment. Notice of the hearing will be provided at least ~~seven~~ **fourteen (14)** days in advance of the hearing, **according to M.R.S.A. 30-A 4352(9)**.

## ARTICLE 3 - DEFINITIONS

In general, words and terms used in ~~these regulations~~ this **Ordinance** will have their customary dictionary meanings. More specifically, any word or term defined in the North Haven Land Use **Zoning** Ordinance shall have the definition contained in that ordinance, unless defined differently below; other words and terms used herein are defined as follows:

**Abutting Property:** Any lot which is physically contiguous with the subject lot even if only at a point and any lot which is located directly across a road or right- of-way from the subject lot such that the extension of the side lot lines of the subject lot would touch or enclose the abutting property.

~~**Affordable Housing:** Housing units that will meet the sales price and/or rental targets established by the Comprehensive Plan for housing affordability.~~

**Applicant:** The person applying for subdivision approval under these ~~regulations~~ **local ordinances**.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Buffer Area:** A part of a property or an entire property that is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on ~~adjacent~~ **abutting** properties or on sensitive natural resources.

**Building:** A structure for the support, shelter or enclosure of persons, animals, goods or property of any kind.

**Capital Improvements Program (CIP):** The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**Capital Investment Plan:** The portion of the Comprehensive Plan that identifies the projects for consideration or inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

**Cluster Subdivision:** A subdivision in which the lot sizes are reduced below those normally required by the zoning district in which the development is located in return for the provision of permanent open space. Also referred to as a "conservation subdivision" or "open space subdivision."

**Common Open Space:** Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use and enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, including outdoor recreation.

**Common Scheme of Development.** "Common scheme of development" means a plan or process of development which:

- A. Takes place on contiguous or non-contiguous parcels or lots in the same immediate vicinity; and
- B. Exhibits characteristics of a unified approach, method, or effect such as:
  - 1. unified ownership, management, or supervision;
  - 2. sharing of common equipment or labor; or
  - 3. common financing.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this ~~regulations~~ Ordinance unless waived, after the applicant's written request, by a vote by the Board. The Board will issue a written statement to the applicant upon its determination that an application is complete.

**Complete Substantial Construction:** The completion of a portion of the improvements which represents no less than thirty percent (30%) of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the applicant, the cost of construction for buildings on those lots will not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction will be included in the total costs of proposed improvements.

**Comprehensive Plan:** A document and interrelated documents adopted by the Legislative Body, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4, including the strategies for an implementation program that are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.

**Conservation Easement:** A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space

values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources, or maintaining air or water quality; offered in exchange for cluster housing.

**Density:** The number of dwelling units per acre of land.

**Developed Area:** Any area on which a site improvement or change is made, including but not limited to buildings, landscaping, parking areas, utility infrastructure and streets.

**Direct Watershed of Fresh Pond:** That portion of the watershed which drains directly to the fresh pond without first passing through Fresh Pond. For the purposes of this **Ordinance**, the watershed boundaries shall be as delineated in the Comprehensive Plan, or as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor and hydrologist showing where the drainage divide lies.

**Driveway:** A vehicular access way serving two lots or less.

**Dwelling Unit:** A room or suite of rooms used as a habitation that is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; including but not limited to single family houses, the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

**Engineered Subsurface wastewater Disposal System:** A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of wastewater per day or more; or any system designed to be capable of treating wastewater with higher BOD5 and total suspended solids concentrations than domestic wastewater.

**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:** Areas that are 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 are not part of Fresh Pond, coastal wetlands, rivers, streams or brooks. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

**Great Pond:** Any inland body of water which in a natural state has a surface area in excess of ten (10) acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty (30) acres, except for the purposes of this **Ordinance**, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner. Fresh Pond is North Haven's only great pond.

**High Intensity Soil Survey:** A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each

sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity soil surveys.

**High Water Mark, Coastal Waters:** See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

**High Water Mark, Inland Waters:** See DEP Chapter 1000 Minimum Guidelines for Municipal Shoreland Zoning Ordinances.

**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

**Lot coverage - the percentage of the lot covered by all buildings, structures, and impervious surfaces including but not limited to driveways, walkways, parking areas and patios.**

**Multifamily Development:** A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

**Municipal Engineer:** Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

**Net Residential Acreage:** The total acreage available for the subdivision, as shown on the proposed subdivision plan, minus the area for streets or access and the areas that are unsuitable for development as outlined in Article 10.

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

**New Structure or Structures:** Includes any structure for which construction begins on or after July 1, 2012. The area included in the expansion of an existing structure is deemed to be a new structure.

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

**Planning Board:** The Planning Board of the Town of North Haven, previously defined as "the Board".

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

**Professional Engineer:** A professional engineer, registered in the State of Maine.

**Public Water System:** A water supply system that provides water to at least 15 service connections or services water to at least 25 individuals daily for at least 30 days a year.

**Recording Plan:** An original of the Preliminary Plan, suitable for recording at the Registry of Deeds and which need show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

~~**Reserved Affordable Housing:** Affordable housing that is restricted by means of deed covenants, financing restrictions, or other binding long term methods to occupancy by households making 120% or less of the area median household income.~~

**Rural District:** As defined by the Land Use Ordinance of the Town of North Haven.

**Sight Distance:** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in this **Ordinance** as a reference for unobstructed road visibility.

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval.

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

**Street Classification:**

**Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. North Haven has no streets considered arterial streets.

**Collector Street:** A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

**Cul-de-sac:** A street with only one outlet and having the other end for the reversal of traffic movement.

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

**Minor Residential Street:** A street servicing only residential properties and which has an average daily traffic of less than 200 vehicles per day.

**Private Right-of-Way:** A minor residential street servicing no more than eight dwelling units, which is not intended to be dedicated as a public way.

**Subdivision** means the division of a tract or parcel of land into three (3) or more lots within any five year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, building or otherwise. The term "subdivision" also includes the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five year period, the construction or placement of three (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 three (3) or more dwelling units within a five year period.

A. In determining whether a tract or parcel of land is divided into three (3) or more lots, the first division of the tract or parcel is considered to create the first two (2) lots and the next division of either of these first two (2) lots, by whomever accomplished, is considered to create a third lot, unless:

1. Both divisions are accomplished by an applicant who has retained one of the lots for the applicant's own use as a single-family residence that has been the applicant's principal residence for a period of at least five years immediately preceding the second division; or
2. The division of the tract or parcel is otherwise exempt under this subchapter.

B. The division of a tract or parcel of land and the lot or lots so made, which division or lots when made are not subject to this subchapter, do not become subject to this subchapter by the subsequent division 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.

This term has been defined as in Title 30-A M.R.S.A. §4401, sub-§4, as amended. A lot of 40 or more acres shall be counted as a lot for the purposes of this definition when the parcel of land being divided is located entirely outside the Shoreland Zone as defined in the Town of North Haven Shoreland Zoning Ordinance.

**Tract or Parcel of Land:** All contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

**Usable Open Space:** That portion of the common open space which, due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

**Village District:** As defined by the Land Use Ordinance of the Town of North Haven.

**Year-round Housing Unit:** Lots/units which may be purchased or rented for occupancy by year-round residents of North Haven people earning 200% 250% of area median income for Knox County or less, as established by the Department of Housing and Urban Development (HUD), United States Census, the Maine Department of Agriculture Conservation and Forestry (formerly Maine State Planning Office) or the Mid-Coast Regional Planning Commission.

**100-Year Flood:** The highest level of flood that, on the average, has a one percent (1%) chance of occurring in any given year.

## ARTICLE 4 - ADMINISTRATIVE PROCEDURE

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board will prepare a written agenda for each regularly scheduled meeting. The agenda will be prepared no less than one week in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Board's agenda at least fourteen days in advance of a regularly scheduled meeting by contacting the Chairperson. Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the Board's written agenda.

## ARTICLE 5 - SKETCH PLAN MEETING AND SITE INSPECTION

### 5.1 Purpose.

The purpose of the Sketch Plan meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Board and receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.

### 5.2 Sketch Plan Meeting Procedure.

- A. The applicant shall present the Sketch Plan and make an oral presentation regarding the site and the proposed subdivision.
- B. Sketch Plan Submissions: Nine (9) copies of the Sketch Plan and all supporting materials must be submitted 30 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Board's agenda. The Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a freehand pencil sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The Sketch Plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. 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:
  1. A Sketch Plan Application form, and a Sketch Plan Application fee as set by a fee schedule established by the ~~Select Board of Selectmen~~,
  2. 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 10 acres in size,
  3. A copy of that portion of the Knox County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development, and
  4. A written project narrative as described above.
- C. Following the applicant's presentation, the Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests will be postponed until the subsequent review of the full application.
- D. The date of the on-site inspection will be selected.

### 5.3 Contour Interval and On-Site Inspection.

Within thirty (30) days of the Sketch Plan meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Preliminary Plan. The applicant shall place "flagging" at the centerline of any proposed streets,

and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. If the proposed project includes buildings, the approximate corners of building footprints shall be “flagged.” The Board may choose not to conduct on-site inspections when there is inclement weather or snow on the ground disguising ground contours and water bodies; or if there is perceived danger to the inspectors (for example, deer rifle hunting season). On-site inspections will be noticed as required by 1 M.R.S.A. §§401-410, and the public shall be allowed to accompany the Board. Minutes will be taken in the same manner as for regular meetings.

#### **5.4 Rights not Vested.**

The Sketch Plan meeting, the submittal or review of the Sketch Plan or the on-site inspection 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., §302.

#### **5.5 Establishment of File.**

Following the Sketch Plan meeting the Board will establish a file for the proposed subdivision. All correspondence and submissions regarding the Sketch Plan meeting and application will be maintained in the file.

## **ARTICLE 6 - PRELIMINARY PLAN APPLICATION**

### **6.1 Procedure.**

- A. Within six months after the on-site inspection by the Board and receipt of comments, the applicant shall submit an application for approval of a Preliminary Plan at least 14 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail or by hand to the municipal offices. Failure to submit an application within six months shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus accommodation of any recommendations made by the Board.
- B. All applications for the Preliminary Plan shall be accompanied by a non-refundable application fee based on a fee schedule established by the **Select Board of Selectmen**, payable by check to the Town. In addition, the applicant shall pay an escrow fee, based on a fee schedule established by the **Select Board of Selectmen**, per lot or dwelling unit, to be deposited in a special escrow account designated for that subdivision application, to be used by the Board for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with the **this Ordinance** and the Land Use Ordinance. If the balance in this special account is drawn down by 75%, the Board will notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board will continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. Any balance in the escrow account remaining after a decision on the Final Plan application by the Board shall be returned to the applicant.

- C. The Board will not review any Preliminary Plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or the applicant's representative fail to attend, the Board will reschedule review of the application at its next regular meeting.
- D. Within three (3) days of the receipt of the Preliminary Plan application, the Board, or its designee, will:
  - 1. Issue a dated receipt to the applicant.
  - 2. Notify in writing by First Class Mail all owners of abutting property that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
- E. Within thirty (30) days of the receipt of the Preliminary Plan application, the Board will determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board will notify the applicant of the specific additional material needed to complete the application.
- F. Upon determination that a complete application has been submitted for review, the Board will notify the applicant in writing. The Board will also notify the Road Commissioner, Fire Chief and Superintendent of Schools of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any single family, multifamily, commercial or industrial buildings. The Board will request that these officials comment upon the adequacy of their departments' existing capital facilities to service the proposed subdivision.
- G. The Board will hold a public hearing within thirty (30) days of determining that it has received a complete application, and will publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the Town at least two times, the date of the first publication to be **on the Town of North Haven website** at least ~~seven~~ **fourteen (14)** days prior to the hearing. In addition, the notice of the hearing will be posted in at least three prominent places within the Town at least ~~seven~~ **fourteen (14)** days prior to the hearing. A copy of the notice will be sent by First Class mail to **landowners of abutting properties, landowners within three hundred feet (300 feet) of the subject property** ~~abutting landowners~~ and to the applicant, at least ~~ten~~ **fourteen (14)** days prior to the hearing.
- H. Within thirty (30) days from the public hearing, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board will make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan application. The Board will specify in writing its findings of fact and reasons for any conditions or denial.
- I. When granting approval to a Preliminary Plan, the Board will 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 the Board finds may be waived without jeopardy to the public health, safety, and general welfare, and,

3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the Final Plan.
- J. Approval of a Preliminary Plan will not constitute approval of the Final Plan or intent to approve the Final Plan, 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 by the Board upon fulfillment of the requirements of this **Ordinance** and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require that additional information be submitted and changes in the Plan be made as a result of further study of the proposed subdivision or as a result of new information received.

## **6.2 Mandatory Submissions for Preliminary Plan.**

- A. Application Materials: The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Board, pursuant to Article 12. Nine (9) copies of all materials shall be delivered to the Town Office, at least 14 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 and local ordinances are met. The application materials for Preliminary Plan approval shall include the following information:
- B. Location Map: The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the Town. The location map shall show:
  1. Existing subdivisions in the proximity of the proposed subdivision,
  2. Locations and names of existing and proposed streets,
  3. Boundaries and designations of zoning districts,
  4. An outline of the lands included in the proposed subdivision and any remaining lands in the vicinity in which the applicant has a legal interest and which may be considered to be part of a common scheme of development,
  5. All subdivision boundary corners and angle points, including all lot boundary corners and angle points, shall be marked.
- C. Preliminary Plan Contents: The Preliminary Plan 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 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch, provided all necessary detail can easily be read. The application materials for Preliminary Plan approval shall include the following information:
  1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the Assessor's Map and Lot numbers,
  2. Verification of right, title or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest,

3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30-A M.R.S.A. section 4401,
4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property,
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision,
6. An indication of the type of sewage disposal to be used in the subdivision,
  - a. When sewage disposal is to be accomplished by connection to the public sewer, a letter from the Town sewer department stating the district has the capacity to collect and treat the wastewater shall be provided.
  - b. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. An indication of the type of water supply system(s) to be used in the subdivision,
  - a. When water is to be supplied by public water supply, a written statement from the servicing water district shall be submitted indicating there is adequate supply and pressure for the subdivision.
8. The date the plan was prepared, north point, and graphic map scale,
9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan and adjoining property owners,
10. A delineation of all wetland areas, regardless of size. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, unusually large specimen trees, if present, and other essential existing physical features. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. The application shall indicate if any area of the subdivision is in the watershed of Fresh Pond,
11. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision,
12. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided,
13. The location, names, and present widths of existing streets, highways, easements, building footprints, parks and other open spaces on or adjacent to the subdivision,
14. The width and location of any streets, public improvements or open space shown upon the official map and the Comprehensive Plan, if any, within the subdivision,
15. The proposed lot lines with approximate dimensions and lot areas,

16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication,
  17. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management,
  18. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation,
  19. 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, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the Plan,
  20. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the Comprehensive Plan. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project, or by a town-wide natural features survey, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation,
  21. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places, or have been identified in the Comprehensive Plan or by the Maine Historic Preservation Commission, or by a town-wide survey as sensitive or likely to contain such sites.
- D. Required Submissions For Which A Waiver May Be Granted: The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12, Waivers. Nine (9) copies of all materials shall be delivered to the Town Office, at least 14 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Board's agenda. The Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.
1. A high-intensity soil survey by a registered soil scientist.
  2. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level.
  3. A Hydrogeologic assessment.
    - a. A hydrogeologic assessment prepared by a certified geologist or registered professional engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and/or any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or the subdivision has an average density of more than one dwelling unit per 100,000 square feet.
    - b. The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of

adverse impacts on groundwater quality. These cases include but are not limited to extensive areas of shallow to bedrock soils; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and proposed use of shared or common subsurface wastewater disposal systems. The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 10.9 below.

4. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from the most recent available edition of the Trip Generation Manual, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
  5. Traffic Impact Analysis. For subdivisions involving 28 or more parking spaces or projected to generate more than 140 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic engineering, shall be submitted. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
- E. The Planning Board may require any additional information not listed above, when it is determined necessary by the Board to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 has been met.

## **ARTICLE 7 - FINAL PLAN APPLICATION**

### **7.1 Procedure.**

- A. Within six months after the approval of the Preliminary Plan, the applicant shall submit nine (9) copies of an application for approval of the Final Plan with all supporting materials, at least 14 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the Final Plan is not submitted within six months after Preliminary Plan approval, the Board shall require resubmission of the Preliminary Plan, except as stipulated below. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any changes required by the Board.
  1. If an applicant cannot submit the Final Plan within six months, due to delays caused by other regulatory bodies or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. **To approve** ~~In considering~~ a request for an extension, the Board shall make findings that the applicant has made due progress in preparation of the Final

Plan and in pursuing approval(s) by other agencies, and that municipal ordinances or regulations relevant to the proposed development have not been amended.

- B. All applications for Final Plan approval for a major subdivision shall be accompanied by a non-refundable application fee based on a fee schedule established by the **Select Board of Selectmen**, payable by check to the municipality. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the application for Final Plan approval, along with any supporting materials, pursuant to the procedures of section 6 1. B.
- C. Prior to submittal of the Final Plan application, the following approvals shall be obtained in writing, where applicable:
  - 1. Maine Department of Environmental Protection, under the Site Location of Development Act.
  - 2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed.
  - 3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
  - 4. Maine Department of Human Services, if an engineered subsurface wastewater disposal system(s) is to be utilized.
  - 5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
  - 6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit.
  - 7. If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.
- D. If the Preliminary Plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, or identified by a town-wide survey, in accordance with Section 6.2.C.23, the applicant shall submit a copy of the Plan and a copy of any proposed mitigation measures to the Maine Historic Preservation commission prior to submitting the Final Plan application.
- E. Written approval of any proposed street names from the Town of North Haven E911 Addressing Officer.
- F. The Board shall not review any Final Plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or the applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.
- G. Within three days of the receipt of the Final Plan application, the Board, or its designee, shall issue a dated receipt to the applicant.
- H. Within thirty (30) days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

- I. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing. The Board shall determine whether to hold a public hearing on the Final Plan application.
- J. ~~If the Board decides to hold a public hearing,~~ The Board will hold a public hearing within thirty (30) days of determining that it has received a complete application, and will publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the Town at least two times, the date of the first publication to be **on the Town of North Haven website** at least ~~seven~~ **fourteen (14)** days prior to the hearing. In addition, the notice of the hearing will be posted in at least three prominent places within the Town at least ~~seven~~ **fourteen (14)** days prior to the hearing. A copy of the notice will be sent by First Class mail to **landowners of abutting properties, landowners within three hundred feet (300 feet) of the subject property** ~~abutting landowners~~ and to the applicant, at least ~~fourteen (14)~~ **ten** days prior to the hearing.
- K. Before the Board grants approval of the Final Plan, the applicant shall meet the performance guarantee requirements contained in Article 11.
- L. Within thirty (30) days from the public hearing or within sixty days of receiving 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 applicant, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A., §4404 and the standards of this **Ordinance**. If the Board finds that all the criteria of the statute and the standards of have been met, they shall approve the Final Plan. If the Board finds that any of the criteria of the statute or the standards ~~of~~ 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.

## 7.2 Mandatory 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 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 line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the Plan for endorsement by the Board. One reproducible, stable-based transparency of the Recording Plan to be recorded at the Registry of Deeds, and 9 full sized paper copies of all the Final Plan sheets and any supporting documents shall be submitted, in addition to an electronic copy of the application to the Town of North Haven.

The Final Plan shall include or be accompanied by the following mandatory submissions of information:

- A. Completed Final Plan Application Form and Final Plan Application Submissions Checklist.

- B. Proposed name of the subdivision and the name of the municipality in which it is located, plus the **North Haven** assessor's map and lot numbers.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- E. An indication of the type of water supply system(s) to be used in the subdivision.
- F. When water is to be supplied by an existing 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.
- G. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
- H. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- I. The date the plan was prepared, north point, graphic map scale.
- J. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- K. The location of any zoning boundaries affecting the subdivision.
- L. If different than those submitted with the Preliminary Plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- M. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- N. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, 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 location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. **The surveyor shall ensure that all lot corners have suitable monumentation.** The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.
- O. Street plans, meeting the requirements of Section 10.15.
- P. The width and location of any proposed new streets or public improvements or open space within the subject property that are shown upon the official map, in the Comprehensive Plan, or Capital Improvements Program, if any.
- Q. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and 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 managed and

maintained shall be submitted. These may include homeowners' association bylaws and condominium declarations. If proposed streets and/or open spaces 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 to convey title shall be included.

- R. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
- S. The location and method of disposal for land clearing and construction debris.
- T. The location of any lands in the vicinity in which the applicant has a legal interest and which may be considered to be part of a common scheme of development, but which are proposed to be excluded from the subdivision.

### 7.3 Required Submissions for which a Waiver May be Granted.

The Final Plan shall also include or be accompanied by the following information, unless a waiver is requested and granted pursuant to Article 12, Waivers.

- A. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. ~~The Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of Fresh Pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.~~
- B. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. ~~The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of Fresh Pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.~~
- C. If any portion of the proposed subdivision is in the direct watershed of Fresh Pond, and meets the criteria of section 10.12.D, the following shall be submitted or indicated on the plan:
  - 1. A phosphorus impact analysis and control plan conducted using the procedures set forth in DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
  - 2. A long-term maintenance plan for all phosphorus control measures.
  - 3. The contour lines shown on the plan shall be at an interval of no less than five (5) feet.
  - 4. Areas with sustained slopes greater than twenty five percent (25%) covering more than one acre shall be delineated.

#### 7.4 Final Approval and Filing.

- A. No Plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §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 (90) days of the date upon which the Plan is approved and signed by the Board shall become null and void.
- C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.
- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless a revised Final Plan is first submitted and the Board approves any modifications, in accordance with Article 8. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A., §4404, and the standards of 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.
- E. The approval by the Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the Plan to be dedicated to the municipality, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Except in the case of a Phased Development Plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

## ARTICLE 8 - REVISIONS TO APPROVED PLANS

### 8.1 Procedure.

An applicant for a revision to a previously approved Plan shall, at least 30 days prior to a scheduled meeting of the Board, request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for Preliminary Plan approval shall be followed. If the revision involves only modifications of the approved Plan, without the creation of additional lots or dwelling units, the procedures for Final Plan approval shall be followed.

### 8.2 Submissions.

The applicant shall submit a copy of the approved Plan as well as nine (9) copies of the proposed revisions. The application shall also include enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this **Ordinance** and the criteria of the statute. The revised plan shall indicate that it is the revision of a previously approved and recorded Plan and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original Plan is recorded at the Registry of Deeds.

### 8.3 Scope of Review.

The Board's scope of review shall be limited to those portions of the Plan which are proposed to be changed.

## ARTICLE 9 - INSPECTIONS AND ENFORCEMENT

### 9.1 Inspection of Required Improvements.

- A. At least 30 days prior to commencing construction of required improvements, the applicant or builder shall:
  1. Notify the Code Enforcement Officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
  2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the applicant or builder as appropriate. If the inspection account shall be drawn down by 90%, the applicant or builder shall deposit an additional 1% of the estimated costs of the required improvements.
- 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 applicant, the inspecting official shall so report in writing to the municipal officers, Board, and the applicant and builder. The municipal officers shall take any steps necessary to assure compliance with the approved Plans, beginning with the issuance of a cease and desist and the accrual of fines following.

- C. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of 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 Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the applicant shall obtain permission from the Board to modify the plans in accordance with Article 8.
- D. At the close of each summer construction season the Town shall, at the expense of the applicant, have the site inspected by a qualified individual. By October 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 stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the applicant shall provide the Board with a letter from a professional 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 public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of this Ordinance and is in compliance with the town's road 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. "As built" plans shall be submitted to the municipal officers.
- G. The applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

## **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. A person shall not 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. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

- D. 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.
- E. 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 Plan approved as provided in this **Ordinance** and recorded in the Registry of Deeds.
- F. 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 this **Ordinance** up to and including the entire frontage of the lot. No unit in a multifamily development shall be occupied before the street upon which the unit is accessed is completed in accordance with this **Ordinance**.
- G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.

## **ARTICLE 10 - PERFORMANCE & DESIGN STANDARDS**

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Article 1, section 2. In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance and design 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 to present adequate information to indicate all performance and design standards and statutory criteria for approval have been or will be met.

### **10.1 Basic Subdivision Layout.**

#### A. Utility/Pedestrian Easements

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

#### B. Lots

1. Wherever possible, side lot lines shall be perpendicular to the street.
2. 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 division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the subdivision statute, the standards of this **Ordinance** and conditions placed on the original approval.
3. If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines), tidal water, or road fails to meet the minimum

requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.

4. The ratio of lot length to width, outside of the Shoreland Zone, shall not be more than three to one (3:1). 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. 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 (5:1).
5. In areas served by a postal carrier, 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 E-911 Addressing Officer and the comments shall be considered by the Board.

C. Utilities -The Board may require underground utilities.

D. Survey Monuments -All subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable (stone or precast cement) monumentation, as required by the Maine Board of Registration of Land Surveyors.

## **10.2 Sufficient Water.**

### **A. Water Supply**

1. Any subdivision within the area designated in the Comprehensive Plan for future public water supply service shall make provisions for connection to the public system. A proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the district's or company's system as necessary in order to facilitate connection.
2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants, shall be installed at the expense of the applicant. 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. Fire hydrants connected to a public water supply system shall be located no further than 500 feet from any building.
3. When a proposed subdivision is not within the area designated for public water supply service in the Comprehensive Plan, water supply shall be from individual wells or a private community water system.

- a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
  - i. The Board shall require a hydrology study to be conducted at the cost of the applicant.
  - ii. Wells shall not be constructed within 50 feet of the traveled way of any street, if located downhill from the street, or within 25 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the affected lots.
- b. Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface wastewater disposal areas 200 feet removed from water wells for dwellings.
- c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
- d. In areas where the Planning Board has identified the need for additional water storage capacity for firefighting purposes, the applicant shall provide adequate water storage facilities.
  - i. Facilities may be ponds with dry hydrants, underground storage reservoirs or other methods acceptable to the fire chief.
  - ii. A minimum storage capacity of 10,000 gallons shall be provided for a subdivision not served by a public water supply. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the Fire Chief.
  - iii. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice. An easement shall be granted to the municipality granting access to and maintenance of dry hydrants or reservoirs where necessary.
  - iv. Hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches. A suitable accessway to the hydrant or other water source shall be constructed.
  - v. The Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision will not permit their construction or installation and that the Fire Chief has indicated in writing that alternate methods of fire protection are available.

## B. Water Quality

1. Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine

Rules Relating to Drinking Water, that fact shall be disclosed in a note on the plan to be recorded in the Registry of Deeds.

### **10.3 Erosion and Sedimentation and Impact on Water Bodies.**

- A. The proposed subdivision shall prevent soil erosion and sedimentation from entering water bodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- D. 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.

### **10.4 Sewage Disposal.**

#### **A. Public System**

- 1. Any subdivision within the area designated in the Comprehensive Plan for future public sewage disposal service shall be connected to the public system.
- 2. When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
- 3. The sewer district shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
- 4. The sewer district shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the servicing sewer district or department.

#### **B. Private Systems**

- 1. When a proposed subdivision is not within the area designated for public sewage disposal service in the Comprehensive Plan, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface wastewater disposal systems or a private treatment facility with surface discharge, licensed by the Department of Environmental Protection.
- 2. The applicant shall submit evidence of site 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.
  - a. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to a disposal area on soils which meet the Disposal Rules.
  - b. 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 in the deed so as not to be built upon.

- c. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

### **10.5 Solid Waste.**

If the additional solid waste from the proposed subdivision exceeds the capacity of the municipal solid waste facility, causes the municipal facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the municipality to exceed its contract with a non-municipal facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

### **10.6 Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas or Public Access to the Shoreline.**

#### **A. Preservation of Natural Beauty and Aesthetics**

1. The plan shall, by notes on the Final Plan and deed restrictions, limit the clearing of trees to those areas designated on the Comprehensive Plan.
2. Except in areas of the municipality designated by the Comprehensive Plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads. Outside of designated growth areas, a subdivision in which the land cover type at the time of application is forested, shall maintain a wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.
3. The Board may require the application to include a landscape plan that will show the preservation of any existing large specimen trees, the replacement of trees and vegetation, and graded contours.
4. Unless located in areas designated as a growth area in the Comprehensive Plan, building location shall be restricted from open fields, and shall be located within forested portions of the subdivision. When the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of buildings when viewed from existing public streets. Earth berms may be used unless they would block a scenic view from a public right-of-way. When a proposed subdivision street traverses open fields, the plan shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.
5. When a proposed subdivision contains a ridge line identified by the Planning Board as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within fifty (50) feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.

## B. Retention of Open Spaces and Natural or Historic Features

1. If any portion of the subdivision is located within an area designated by the Comprehensive Plan as open space or greenbelt, that portion shall be reserved for open space preservation.
2. If any portion of the subdivision is located within an area designated as a unique natural area by the Comprehensive Plan or the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the Comprehensive Plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.
4. The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the municipality in which the subdivision is located according to the Comprehensive Plan, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics, but shall constitute no less than 5% of the area of the subdivision. In determining the need for recreational open space the Board shall also consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; and the type of development. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than 25 feet of road frontage.
5. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.
6. Reserved open space land may be dedicated to the municipality.
7. Where land within the subdivision is not suitable or is insufficient in amount, and when suggested by the Comprehensive Plan, a payment in lieu of dedication may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based on the percentage of reserved open space that otherwise would be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the municipal tax assessor. The payment in lieu of dedication shall be deposited into a municipal land open space or outdoor recreation facility acquisition or improvement fund.

### C. Protection of Significant Wildlife Habitat

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife Beginning with Habitat Project or the Comprehensive Plan as:
  - a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
  - b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
  - c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
  - d. Critical spawning and nursery areas for Atlantic sea run salmon or other anadromous fish as defined by the Maine Department of Inland Fisheries and Wildlife;
2. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
3. Or other important habitat areas identified in the Comprehensive Plan or in the Department of Inland Fisheries and Wildlife Beginning with Habitat Project; or any such area identified by the town.

The applicant shall demonstrate that there shall be no adverse impacts on the habitat and species it supports. There shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge or normal high-water mark of such habitat areas. The applicant must consult with the Maine Department of Inland Fisheries and Wildlife, and provide their written comments to the Board. The Board may require a report to be submitted, prepared by a wildlife biologist, selected or approved by the Board, with demonstrated experience with the wildlife resource being impacted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe any additional appropriate mitigation measures to ensure that the subdivision will have no adverse impacts on the habitat and the species it supports.

### D. Protection of Important Shoreland Areas

1. Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included as open space with provisions made for continued public access.
2. Within areas subject to the state mandated Shoreland Zone, within a strip of land extending 250 feet inland from the normal high-water line of Fresh Pond or any tributary to Fresh Pond, and 75 feet from any other water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. The plan notes, and deeds to any lots which include any such land, shall contain the following restrictions:

- a. Tree removal shall be limited to no more than 40% of the volume of trees 4 inches or more in diameter measured at 4 1/2 feet above the ground level on any lot in any ten year period.
  - b. There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown.
  - c. However, a footpath not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water through the buffer strip is not created. Adjacent to Fresh Pond, or a tributary to Fresh Pond, the width of the foot path shall be limited to six feet.
  - d. In order to protect water quality and wildlife habitat adjacent to Fresh Pond, and tributaries to Fresh Pond, existing vegetation under three feet in height and other ground cover shall not be removed, except to provide for a footpath or other permitted uses as described above.
  - e. Pruning of tree branches, on the bottom third of the tree is permitted.
3. Within areas subject to the state mandated Shoreland Zone, beyond the buffer strip designated above, and out to 250 feet from the normal high water line of a water body or upland edge of a wetland, cleared openings for development, including but not limited to, principal and accessory structures, driveways and sewage disposal areas, shall not exceed in the aggregate, 25% of the lot area or 10,000 square feet, whichever is greater, including land previously developed.
- E. Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services
1. All open space common land, facilities and property shall be owned by:
    - a. The owners of the lots or dwelling units by means of a lot owners' association; or
    - b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
    - c. The Town of North Haven.
  2. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational, agriculture or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the subdivision, there shall be a conservation easement deeded a land trust or other conservation organization.
  3. The common land or open space shall be shown on the Final Plan with appropriate notations on the plan to indicate:
    - a. It shall not be used for future building lots; and
    - b. Which portions of the open space, if any, may be dedicated for acceptance by a land trust or similar conservation organization.

4. The Final Plan application shall include the following:
  - a. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling;
  - b. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and
  - c. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
5. In combination, the documents referenced in paragraph D.E4, above shall provide for the following.
  - a. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
  - b. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
  - c. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
  - d. The applicant shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the lot owners' association or the developer.

#### **10.7 Conformance with Zoning Ordinance and Other Land Use Ordinances.**

All lots, other than those found within cluster developments approved pursuant to section 10.13, shall meet the minimum dimensional requirements of the zoning ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance and other land use ordinances.

#### **10.8 Financial and Technical Capacity.**

##### **A. Financial Capacity**

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of this Ordinance. ~~The applicant shall provide a letter of credit to the Board.~~ When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Board shall consider the proposed time frame for construction and the effects of inflation.

## B. Technical Ability

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.
3. The applicant shall provide a *curriculum vitae* with references to the Board for all contractors and consultants.

## 10.9 Impact on Ground Water Quality or Quantity.

### A. Ground Water Quality

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
  - a. A map showing the basic soils types,
  - b. The depth to the water table at representative points throughout the subdivision,
  - c. Drainage conditions throughout the subdivision,
  - d. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties,
  - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen and salinization concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance,
  - f. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
4. If **pre-development** ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site groundwater supplies, the applicant shall demonstrate how water quality will be improved or treated.
5. If **pre-development** ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

6. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce groundwater contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

B. Groundwater Quantity

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
2. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

**10.10 Floodplain Management.**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- A. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.
- B. Adequate drainage shall be provided so as to reduce exposure to flood hazards.
- C. The plan shall include a statement that structures 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 any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the municipality may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

**10.11 Identification of Freshwater Wetlands, Rivers, Streams or Brooks.**

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the 2009 *Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region* published by the United States Army Corps of Engineers, or any subsequent Delineation Manual. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

**10.12 Stormwater Management.**

- A. For subdivisions that require a DEP review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Stormwater Regulations.
- B. For subdivisions that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Regulations.
- C. For subdivisions outside of the watershed of Fresh Pond, that neither require a SLDA permit, nor a DEP permit under the Stormwater Law, a stormwater management plan shall be

submitted which incorporates Low Impact Development techniques on each individual lot, as described in the Maine Low Impact Development Ordinance ([midcoastplanning.org](http://midcoastplanning.org)).

- D. For subdivisions within the watershed of Fresh Pond, the Resource Protection Ordinance applies.
- E. The Planning Board shall require a hydrologic analysis for any site in areas with a history of flooding or in areas with a potential for future flooding, associated with cumulative impacts of development. This hydrologic analysis would be in the form of a “Downstream Analysis” under conditions of the 10-year, 24-hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm, as described below:

#### Downstream Analysis Methodology

The criteria used for the downstream analysis is referred to as the “10% rule.” Under the 10% rule, a hydrologic and hydraulic analysis for the 10-year, 24 hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm is extended downstream to the point where the site represents 10% of the total drainage area. For example, a 10-acre site would be analyzed to the point downstream with a drainage area of 100 acres. This analysis should compute flow rates and velocities downstream to the location of the 10% rule for present conditions and proposed conditions. If the flow rates and velocities increase by more than 5% and/or if any existing downstream structures are impacted, the designer should redesign and incorporate detention facilities.

### 10.13 Cluster Developments.

#### A. Purpose, Mandate for Clustering

1. The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for the creation of open space which provides recreational opportunities or protects important natural features from the adverse impacts of development, provided that the net residential density shall be no greater than is permitted in the district in which the development is proposed. Notwithstanding provisions of the zoning ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances to relieve hardship, and action of the Zoning Board of Appeals shall not be required.
2. Subdivisions proposed in the Village district, containing five (5) lots or units or more, may include a cluster and a traditional development plan. Subdivisions proposed in the rural or Shoreland Zoning districts, containing five (5) lots or units or more, shall include both a cluster and a traditional development plan. The Planning Board shall review both plans and determine which is the more appropriate for the site.

#### B. Basic Standards for Cluster Developments

1. Cluster developments shall meet all requirements of this **Ordinance**.

2. Each building shall be an element of an overall plan for site development. Only developments having a total site plan for all structures will be considered. The application shall illustrate the placement of buildings and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of this **Ordinance**.
3. The Planning Board shall allow lots within cluster developments to be reduced in lot area, street frontage and lot width below the minimum normally required by this Ordinance in return for provision of common open space, as long as the maximum number of dwelling units is not exceeded, according to the calculations in section 4 below.
4. In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage as determined in section 5 shall be divided by the minimum lot size in the district, as required by the zoning ordinance. No building in the cluster development shall be sited on slopes steeper than 25%, within 100 feet of any water body or wetland, or on soil classified as being very poorly drained.
5. The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following:
  - a. 15% of the area of the lot to account for roads and parking.
  - b. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
  - c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
    - i. slopes greater than 20%;
    - ii. wetland soils;
    - iii. portions of the lot subject to rights of way;
    - iv. portions of the lot located in the resource protection zone;
    - v. portions of the lot covered by surface waters; and
    - vi. portions of the lot utilized for stormwater management facilities.
6. Unless a community sewage collection and treatment system is provided, no lot or area of occupation, in the case of a condominium, shall be smaller in area than 20,000 square feet.
7. The total area of reserved open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required by the zoning ordinance. However, at least fifty percent (50%) of the area of the entire parcel or tract shall be included as common open space. Common open space shall not include road

- rights of way, streets, drives, or parking. No more than fifty percent (50%) of the common open space shall consist of forested or open wetlands of any size.
8. Every building lot that is reduced in area below the amount normally required shall be within 1,000 feet of the common land.
  9. The distance between buildings shall not be less than 20 feet.
  10. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
  11. Shore frontage for each lot or area of occupation, in the case of a condominium, shall not be reduced below the minimum normally required by the zoning ordinance.
  12. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as reasonable access to it, shall be a part of the common land.
  13. The common open space shall owned and managed according to the standards of 10.6.E.
  14. The applicant shall be responsible for the maintenance of the common open space and the other common facilities, until 4/5ths of the lots or units are sold. The transfer of responsibility shall occur only after review and approval by the Planning Board, upon request by the neighborhood association or the developer or applicant.

#### **10.14 Year-Round Housing Qualifications For Waivers And Density Bonus.**

##### **A. Purpose**

The purpose of this section is to implement certain housing strategies of the Town's Comprehensive Plan, with the goal of ensuring at least 10% of the total housing stock in North Haven is affordable to year-round residents earning ~~200%~~ 250% of area median income or less. To that end, the standards and criteria below are provided to increase development potential for year-round housing on the island.

##### **B. Land Use Requirements**

The increased density and other relaxed standards provided below may be granted by the Planning Board in the form of waivers from the relevant standards of the current Land Use Ordinance and are permissible only for subdivision proposals intended to create qualified Year-round Housing Unit, as defined, in at least a 3/4 proportion of the total number of dwelling units proposed in the same subdivision plan.

##### **1. Resource Protection**

- a. No more than 50% of the property proposed to be subdivided shall be within the Shoreland Zone.
- b. No more than 50% of the property proposed to be subdivided shall contain sustained slopes of 10% or greater.
- c. No more than 50% of the property proposed to be subdivided shall contain wetlands, as defined.

## 2. Subdivision Design

The configuration of structures and open spaces shall reflect the purpose of this section and meet all other relevant requirements of this Ordinance and the Land Use Ordinance, unless appropriate waivers are granted by the Planning Board. The plan shall show the location and size of all building envelopes, roads, utility easements, common areas, common structures, parking areas, footpaths, and private yard space related to individual residential units.

- a. **Multiple Structures:** When the construction of multiple buildings is proposed on a single lot, the plan shall indicate the purpose and show the general location of each building. Accessory structures shall not contain dwelling units.
- b. **Multiple Dwellings:** When the construction of multiple single-family dwelling units is proposed on a single lot, they shall be contained within a single building.

## 3. Dimensional Standards

- a. **Density:** A decrease in the minimum lot ~~size~~ ~~area per dwelling unit~~ of up to 50% of the requirement in effect in the underlying zoning district may be granted by the Planning Board.
- b. **Lot Coverage:** An increase in the maximum lot coverage requirement may be granted by the Planning Board as follows:
  - i. up to 75% in the Village District
  - ii. up to 50% in all other zoning districts
- c. **Road Frontage:** A decrease in the minimum road frontage requirement may be granted by the Planning Board, if the Board finds that safe and convenient access to dwelling units can be provided, except that the lot over which the main access road lies shall meet the required road frontage for the underlying zoning district.
- d. **Roadways:** Reduction of required minimum street widths as determined by the Planning Board to provide safe and convenient access to dwellings.
- e. **Setbacks:** A decrease in the minimum side and rear setback requirements for the internal lot lines may be granted by the Planning Board. However, with respect to external lot lines, adjacent to parcels not included in the subdivision, the Planning Board may not provide relief from the minimum setback requirements for the underlying zoning district.
- f. **Height:** The Planning Board may not provide relief from the maximum height requirements of the zoning district where a proposed structure is located.

## 4. Common Land and Facilities

The Planning Board must approve any provisions for the maintenance and upkeep of common land and facilities within the proposed subdivision. All shared passive or active recreation areas, wastewater facilities, wells and solid waste removal provisions must be

provided for in a homeowner's association document, which shall be recorded with the subdivision, and provide for adequate financing to ensure proper maintenance and repair.

### C. Requirements for Marketability

The Year-round Housing requirements of this Section are mandatory and shall be noted on the final subdivision plan prior to recording in the Knox County Registry of Deeds.

1. Year-round Housing Lots/Units shall be rented or sold to income qualified renters or buyers. ~~income buyers and renters.~~ The applicant and income qualified buyers who later wish to resell shall initially attempt to sell the property to income qualified buyers by marketing the lot/unit in a manner calculated to attract such buyers. If no income qualified buyer purchases the lot/unit within one hundred eighty (180) days after such marketing commences, the seller or seller's representative may:
  - a. Rent the Year-round Housing Lot/Unit to income qualified tenants;
  - b. Rent the Year-round Housing Lot/Unit to non-income qualified tenants, provided that an option to purchase is offered either to:
    - i. The Town, for consideration at the next available Town Meeting;
    - ii. A non-profit third party dedicated to the creation or maintenance of affordable housing; or
  - c. Sell the Year-round Housing Lot/Unit to non-income qualified buyers, provided that marketing the property for sale to income qualified buyers has been attempted for at least 12 months, in a manner calculated to attract such buyers.
2. ~~At a minimum,~~ the applicant/seller shall advertise the Year-round Housing Lots/Units for sale widely online, on local bulletin boards, and in a newspaper of general circulation in the Town.
3. Year-round Housing Lots/Units shall be ~~proportionately~~ dispersed throughout the subdivision, where feasible, if market-rate housing is also present or proposed.
4. Year-round Housing Lots/Units shall be compatible ~~(in size and appearance)~~ with ~~the design of~~ any market-rate house in the subdivision. ~~in terms of appearance, materials, finished quality and level of finish, including finished second floors, and providing a reasonably comparable number of finished bedrooms and baths to the market rate dwellings in the development~~
5. The applicant shall present an agreement with a non-profit organization for Town Attorney review and comment the proposed language of covenants which preserve the long-term affordability of the Year-round Housing Lot/Units. The covenant shall be either a second mortgage, deed restriction or a combination of the two. The Planning Board ~~may~~ ~~shall~~ require such covenants to include ~~some or all~~ of the following:
  - a. A ~~proven~~ method to preserve long-term (99 years) affordability to income qualified buyers;

- b. A formula for accruing limited equity to the buyer which includes some but not all of the value of physical improvements made to the property by the buyer or future owners;
  - c. The supervision of the agreement by a non-profit organization dedicated, in whole or in part, to providing housing to income **qualified persons** and/or the elderly, and provisions for succession.
6. Year-round Housing Lots/Units shall be constructed and completed at least concurrently with the remainder of the project. In a subdivision approved under this Section, no Land Use permit shall be issued for market rate units in excess of the approved proportion (minimum 3/4) to the number of Year-round Housing Lots/Units for which a certificate of occupancy has already been issued pursuant to the same subdivision plan.
7. The Year-round Housing provisions **of this Ordinance are mandatory, shall be excerpted on the recorded plan in a manner that is satisfactory to the Planning Board, and shall run with the land.**

#### **10.15 Compliance with Timber Harvesting Rules.**

The Board shall require the applicant to provide certification by a licensed forester to demonstrate that they are in compliance with rules adopted pursuant to Title 12, M.R.S.A section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The Planning Board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the Board may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If the Bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. If the Bureau notifies the Planning Board that it will not provide assistance, the Board may require a subdivision applicant to provide a determination certified by a licensed forester. For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, M.R.S.A section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership.

#### **10.16 Traffic Conditions and Streets.**

##### **A. General Standards**

The proposed subdivision shall meet the following general transportation performance standards:

- 1. The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets;

2. The subdivision transportation system shall have design standards that avoid traffic congestion on any street;
3. The subdivision transportation system shall provide safe and convenient circulation for vehicles, bicyclists and pedestrians on interior subdivision streets and access connections to external streets;
4. The subdivision transportation system shall have design standards that are compatible with the estimated Average Annual Daily Traffic of the street, the land uses accommodated by the street, and the lot density of the street; and
5. The subdivision transportation system shall have a positive relationship to the natural setting of the proposed subdivision site.

#### B. General Access Standards

All subdivision accesses connecting with external streets shall meet the following standards:

1. Accesses connecting to any state or state-aid road shall meet the minimum access permitting requirements of the Maine Department of Transportation "Highway Driveway and Entrance Rules". The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. The current roads of North Haven are at Level of Service A.
2. As all the intersections on North Haven are unsignalized, the municipal reviewing authority may reduce the mitigation requirement for those measures so long as the resulting traffic conditions provide for safe traffic movement.

#### C. General Internal Subdivision Street Standards

1. All internal subdivision streets shall meet the following minimum standards. In cases where the internal subdivision street standards conflict with the street ordinance of the municipality, the more stringent rule shall apply.
2. The street or street system of the proposed subdivision shall be designed to coordinate with existing, proposed, and planned streets. Wherever a proposed development abuts unplatted land or a future development phase of the same development, street stubs shall be provided as deemed necessary by the municipality to provide access to abutting properties or to logically extend the street system. All street stubs shall be provided with temporary turn around or cul-de-sacs unless specifically exempted by the Road Commissioner, and the restoration and expansion of the street shall be the responsibility of any future developer of the abutting land. Minor collector and local streets shall connect with surrounding streets to permit convenient movement of traffic between residential neighborhoods or facilitate emergency access and evacuation, but such connections shall not be permitted where the effect would be to encourage the use of such streets by substantial through traffic. Where necessary to safeguard against hazards to vehicle drivers, bicyclists and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, cycleways,

transportation demand management techniques, and traffic controls within existing public streets.

3. **Street Names, Signs and Lighting:** Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Board. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as approved by the Board.
4. During street construction, the entire right of way shall not be cleared unless clearing is necessary for utilities, drainage or other infrastructure necessities beyond the clear zone. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire right of way created during the street construction process. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed and seeded.

#### **10.17 Specific Access and Street Design Standards.**

##### **A. Access Control**

1. To the maximum extent practical, all subdivision accesses shall be constructed perpendicular to the external street providing access to the subdivision. No subdivision accesses shall intersect the external street at an angle of less than 60 degrees.
2. Where a subdivision abuts or contains an existing or proposed arterial street, no lot may have vehicular access directly to the arterial street. This requirement shall be noted on the plan and in the deed of any lot with frontage on the arterial street.
3. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction to the affected lots. In cases where creating an access to a lesser traveled way is problematic, the Board may allow an access on the higher volume street if the access does not significantly detract from public safety. For accesses on higher volume streets, the Board shall consider the functional classification of the external street, the length of frontage on the external street, the intensity of traffic generated by the proposed subdivision, the geography along the frontage of the public way with lesser potential for traffic, and the distance to the public way with lesser potential for traffic.
4. Lots in subdivisions with frontage on a state or state aid highway shall have shared access points to and from the highway. Normally a maximum of two accesses shall be allowed regardless of the number of lots or businesses served.

5. The subdivision access including all radii must be paved from the edge of pavement of the external street to the street right of way or the length of the design vehicle using the subdivision, whichever is greater, unless:
  - a. the external street is not paved; or
  - b. the internal subdivision street is an unpaved private street that is expected to carry an Average Daily Traffic capacity of 50 trips or less.
6. Minimum Sight Distance Standards: Minimum sight distance requirements for all subdivision accesses connecting to external streets shall be contingent on the posted speed of the external street connecting to the subdivision access. For accesses that are expected to carry primarily passenger vehicles, the standards in the second column in Table 10.17-1 shall apply.

**TABLE 10.17-1**

Minimum Sight Distance Standards for Subdivision Accesses

Posted Speed	Sight Distance Standard Vehicles	Sight Distance Large Vehicles	Mobility Sight Distance
(MPH)	(Feet)	(Feet)	(Feet)
20	155	230	Not applicable
25	200	300	Not applicable
30	250	375	Not applicable
35	305	455	Not applicable
40	360	540	580

On roads that are designated by the Maine Department of Transportation as Mobility or Retrograde Arterials, the third column in Table 10.17-1 shall apply.

7. Access design shall be based on the traffic volume estimates anticipated to be carried by the internal subdivision street. Traffic volume estimates shall be defined by the latest edition of the *Trip Generation Manual* published by the Institute of Transportation Engineers. The following traffic volume standards shall apply to the design of subdivision accesses connecting to external streets:
  - a. Low Volume Access: An access with 50 or less passenger car equivalent trips per day.
  - b. Medium Volume Access: Any access with more than 50 passenger car equivalent trips per day but less than 100 passenger car equivalent trips during the peak hour.
  - c. High Volume Access: Any access with 100 or more passenger car equivalent trips during the peak hour.

8. Basic Access Design Standards for Low and Medium Volume Accesses: the following minimum access design standards shall apply to all low and medium volume accesses connecting to external streets:

**TABLE 10.17-2**

Access Design Standards for Low and Medium Volume Accesses

<i>Basic Standards</i>	<i>Low Volume</i> (feet)	<i>Medium Volume</i> (feet)
Minimum Access Width:*		
Majority Passenger Vehicles	14	22
>30% Large Vehicles	30	30
Minimum Curb Radius:		
Majority Passenger Vehicles	10	15
>30% Large Vehicles	15	15
Minimum Corner Clearance to: **		
Unsignalized Intersection	75	100
Minimum Access Spacing***	MPH of External Road	
35 or less	No requirement	No Requirement
40	175	175

\*Minimum widths for low or medium volume accesses shall be either the minimum cross section width of the internal subdivision street

\*\* Minimum corner clearance shall be the distance measured from the edge of an internal subdivision access excluding radii to the edge of an external street excluding radii.

\*\*\*Minimum access spacing shall be the distance measured from the edge of an internal subdivision access excluding radii to the edge of a neighboring access excluding radii.

9. Additional Access Requirements for Medium Volume Accesses: In addition to the basic access standards outlined in 10.17-2, medium volume accesses on state or state-aid highways designated as Major Collectors or Arterials shall also comply with the following standards:
  - a. The minimum curb radius on the edge of the access shall exceed the minimum curb radius standard in 10.17-2 if a larger design radius is needed to accommodate a larger design vehicle.
  - b. A throat shall be constructed around the access in order to store vehicles waiting to exit the access. The throat shall be of sufficient length to prevent incoming vehicles from queuing back into the highway. Access from the throat to parking or other areas shall be prohibited.
  - c. A separator strip or strip of land that separates the roadway from the throat or parking area shall be constructed. The access separator strips shall be installed between the parking area and the roadway and along the throat. The Board shall determine if the separator strip shall include curbing, walkways, ditching, and/or vegetation. The separator strip shall extend away from the highway at a minimum of 9 feet from the traveled way of the external road.
  - d. The Board shall determine if one two-way or two one-way access(es) will be required for the proposed subdivision. If a one-way system is required and the predominant traffic volume is truck traffic, the entrance will be configured on the minimum angle that permits the truck to enter or leave the highway safely and conveniently. Otherwise all one way accesses will be configured perpendicular to the highway for at least the length of the design vehicle. For one-way access systems, the Board shall determine if a physical separation of curbing, ditching, grass or other landscaping must be used between the two one-way accesses. Both portions of a one-way access must be separated from another one-way access by at least 12 feet.

## B. Street Design and Construction Standards

1. General Requirements
  - a. The Board shall not approve any subdivision plan unless any proposed streets are designed in accordance with local ordinances. 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. Such approval shall be made separately from the planning and permitting processes contained in this Ordinance and shall occur prior to occupancy of any of the housing units permitted under this Ordinance.
  - b. Applicants 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 and existing streets within three hundred (300) feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty (50) feet. The vertical scale of the

profile shall be one (1) inch equals no more than five (5) feet. The plans shall include the following information:

- i. Date, scale, and north point, indicating magnetic or true.
  - ii. Intersections of the proposed street with existing streets.
  - iii. Roadway and right-of-way limits including edge of pavement or aggregate base, edge of shoulder, and clear zone.
  - iv. 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.
  - v. Complete curve data shall be indicated for all horizontal and vertical curves.
  - vi. Turning radii at all intersections.
  - vii. Centerline gradients.
  - viii. Size, type, vertical clearance and locations of all existing and proposed overhead and underground utilities, to include but not be limited to water, sewer, electricity, telephone, lighting, and cable television.
- c. Plans for streets shall be sent to the consulting project engineer for review and comment.
  - d. Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the road commissioner or the Maine Department of Transportation, as appropriate.
  - e. Private Roads:

The following standards shall apply to all proposed private roads:

- i. All private roads shall be designated as such and will be required to have adequate signage indicating the road is a private road and not publicly maintained.
- ii. Except for sidewalk, bicycle provisions and minimum grade requirements stipulated in this Section, all private roads shall adhere to the road design standards of this Section.
- iii. The Board may approve a reduction of the right of way easement for private roads to a minimum of thirty (30) feet in land use density areas designated as "Rural."
- iv. All properties served by the private road shall provide adequate access for emergency vehicles and shall conform to the approved local street numbering system.
- v. All private roads shall have adequate provisions for drainage and stormwater runoff as provided in Section 10.12.
- vi. 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, unless

they meet all municipal street design and construction standards as verified by a certified road construction engineer.”

- vii. After review by the Town Attorney, a road maintenance agreement by the Town attorney shall be recorded with the deed of each property to be served by a common private road. The agreement shall provide for a method to initiate and finance a private road and maintain that road in condition, and a method of apportioning maintenance costs to current and future users.

## 2. Street Design Standards

- a. These design guidelines shall control the roadway, shoulders, clear zones, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of this Article.
- b. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the municipality.
- c. In areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, 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.
- d. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets in this Ordinance), or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area or setback requirements of the zoning ordinance. When such widening or realignment is included in the municipality’s capital investment plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the municipality or State.
- e. The design standards of Table 10.17-3 shall be compatible with the traffic volume access thresholds referenced in Section 10.17.A.7. In addition, the street design standards shall be compatible with the estimated Average Daily Traffic expected to occur on the internal subdivision street, and the land use type and lot density allowed in the land use zone. The following land use density pattern requirements shall be required for the following land use zones.
  - i. Land use density patterns that are Rural (R) shall apply to the Rural district.
  - ii. Land use density patterns that are Village (V) shall apply to the village district.

- iii. Land use density patterns that are Commercial (C) shall apply to the Commercial District if the proposed development will contain commercial or industrial uses.
- f. The Board shall have authority to increase the minimum standards in Table 10.17-3, if the Board approves a road design that will accommodate travel speeds greater than 30 mph.

**TABLE 10.17-3**

**Table 10.17-3 Street Design Guidelines**

Traffic Volume Level	1-50 ADT			50-100 ADT		
	R	V/U	I/C	R	V/U	I/C
Density Pattern	R	V/U	I/C	R	V/U	I/C
Minimum Right of Way	40'	40'	40'	40'	40'	50'
Minimum Traveled Way Width	14'	16'	16'	18'	18'	24'
Minimum Shoulder Width each side*	0'	0'	4'	0'	1'	2'
Clear Zone Width (each side)	7'	7'	7'	7'	7'	7'
Minimum Vertical Clearance	14'	14'	14'	14'	14'	14'
Minimum Grade	.5%	.5%	.5%	.5%	.5%	.5%
Maximum Grade***	8%	8%	5%	8%	8%	5%
Minimum Centerline Radius****	100'	100'	350'	100'	100'	350'
Roadway Crown Asphalt Surface	25"/ft	25"/ft	25"/ft	25"/ft	25"/ft	25"/ft
Roadway Crown Aggregate Surface	.5"/ft	N/A	N/A	.5"/ft	N/A	N/A
Minimum Internal Sight Distance	155'	155'	230'	155'	155'	230'
Minimum Internal Spacing Standards*****	25'	25'	40'	25'	25'	40'
Minimum Internal Access to Street Corner Clearance*****	30'	30'	75'	30'	30'	75'

\*The Board may require an increase in shoulder width for stormwater management purposes or road stabilization.

\*\*The minimum vertical clearance is the vertical clearance over the entire roadway width, including any shoulders.

\*\*\* Maximum grade may be exceeded for a length of 30'.

\*\*\*\* Super-elevation is not recommended for any subdivision street unless recommended by Road Commissioner or Town-hired consultant.

\*\*\*\*\* Internal spacing distances are measured from the edge of one internal subdivision access to another, excluding curb radii.

\*\*\*\*\* Internal access to street corner clearances are measured from the edge of an internal subdivision access to an intersecting public road, excluding curb radii.

- g. On Street Parking: The Board shall have authority to require a paved cross section of 26 feet for residential subdivisions with average lot widths between 100 feet and 40 feet wide for on-street spillover parking. The Board may require additional shoulder lengths in any situation where the

proximity of the proposed subdivision to future or existing neighborhood businesses, schools, community facilities, or other bicycle traffic generators suggest that additional shoulder lengths will be needed for bicycle traffic. In situations where additional shoulder lengths are required for bicyclists, the minimum width of a paved shoulder shall be 1 foot on either side of the traveled way for all low and medium volume streets in Rural (R) designated zones. Paved shoulder widths for low and medium volume streets in Village (V) designated zones shall be a minimum of 2 feet on either side of the traveled way.

- h. The centerline of the roadway shall be the centerline of the right-of-way.
  - i. ~~Construction of dead-end streets shall not be allowed~~
3. Street Construction Standards
- a. The minimum thickness of material after compaction shall meet the specifications in Table 10.17-4.

**TABLE 10.17-4**

Table 10.17-4  
Minimum Pavement Materials Thicknesses

Street Materials	Thickness Standards
Aggregate Subbase Course (Max. sized stone 6")	
Without base gravel	18"
With base gravel	15"
Crushed Aggregate Base Course (if necessary)	3"
Hot Bituminous Pavement	
Total Thickness	3"
Surface Course	1 1/4"
Base Course	1 3/4"
Surface Gravel (if permissible)	3"

- b. Preparation.
  - i. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.

- ii. Before grading is started, the entire area within the right-of-way necessary for traveled way, shoulders, clear zones, sidewalks, drainage-ways, and utilities shall be cleared of all stumps, roots, brush, and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area. All organic materials or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the municipal engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a Maine Department of Transportation approved stabilization geotextile may be used.
  - iii. Except in a ledge cut, side slopes shall be no steeper than a slope of three feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than one foot horizontal to four feet vertical is permitted.
  - iv. All underground utilities shall be installed prior to paving to avoid cuts in the pavement. Building sewers and water service connections shall be installed to the edge of the right-of-way prior to paving.
- c. Bases and Pavement.
- i. Bases/Subbase
    - (i) The Aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 10.17-5.

**Table 10.17-5**

Table 10.17-5  
Aggregate Subbase Grading Requirements

<u>Sieve Designation Sieves</u>	<u>Percentage by Weight Passing Square Mesh</u>
¼ inch	25-70%
No. 40	0-30%
No. 200	0-7%

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

- (ii) If the Aggregate Subbase Course is found to be not fine-gradable because of larger stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a three inch square mesh sieve shall meet the grading requirements of Table 10.17-6.

**Table 10.17-6**

Table 10.17-6  
Base Course Grading Requirements

<u>Sieve Designation Sieves</u>	<u>Percentage by Weight Passing Square Mesh</u>
½ inch	45-70%
¼"	30-55%
No.40	0-20%
No. 200	0-5%

- (iii) Aggregate for the base shall contain no particles of rock exceeding two inches in any dimension.
- ii. Pavement Joints: Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.
- iii. Pavements
  - (i) Minimum standards for the base layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.
  - (ii) Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation specifications for plant mix grade C or D with an aggregate size no more than ¾ inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

- iv. Surface Gravel: The Board may approve an aggregate road base for any internal subdivision public street in which zoning requires a minimum of one dwelling unit per 7 acres, or any private way with a maximum estimated Average Daily Traffic of 50 ADT or less. The surface gravel shall meet the gravel grading requirements of Table 10.17-7.

**Table 10.17-7**

Table 10.17-7  
Surface Gravel Grading Requirements

<u>Sieve Designation Sieves</u>	<u>Percentage by Weight Passing Square Mesh</u>
2 inch	95-100%
½ inch	30-65%
No. 200	7-12%

## ARTICLE 11 - PERFORMANCE GUARANTEES

### 11.1 Types of Guarantees.

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

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

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

### 11.2 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 applicant will be in default and the municipality shall have access to the funds to finish construction.

### 11.3 Escrow Account.

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

### 11.4 Performance Bond.

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

### 11.5 Letter of Credit.

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

### **11.6 Phasing of Development.**

The Board may approve plans to develop a major subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way **and shall abide by the guidelines set for road construction in section 10.17-3**. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

### **11.7 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 municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

### **11.8 Default.**

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

### **11.9 Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of this **Ordinance** and for the construction of the streets, stormwater management facilities, public sewage collection or disposal facilities, public water systems, and erosion and sedimentation control measures.

### **11.10 Year-round Housing Units.**

**Subdivision proposals intended to create Year-round Housing Units, as defined, are exempt from Performance Guarantee requirements under this Article, except that documentation of the applicant's financial capacity to construct the project must be provided and found to be acceptable to the Planning Board.**

## ARTICLE 12 - WAIVERS

### 12.1 Waivers of Certain **Procedures** Authorized.

Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, **and/or that the proposed subdivision is intended to create affordable Year-round Housing Units, or that the application is simple and minor in nature,** it may waive portions of the submission requirements **and related procedures,** unless prohibited by **local ordinances** or Maine statutes, provided **that** the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, **or local ordinances.**

The Board may allow an applicant to combine the final plan and preliminary plan application steps into one procedure, upon making all of the following written findings of fact:

- A. No new streets are proposed;
- B. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a “Permit by Rule;”
- C. The Board agrees to approve a waiver from the requirement to submit a stormwater management plan, sedimentation and erosion control plan, and **Traffic Impact Analysis** as ordinarily required by **sections Articles 6 or 7 of this Ordinance;** and
- D. The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.

### 12.2 Waivers of Certain **Improvements and Standards** Authorized.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, **and/or that the proposed subdivision is intended to create of Year-round Housing Unit, it may waive** certain improvements **and performance standards that are otherwise required by local ordinances but are found to be unnecessary** to provide for public health, safety or welfare, or are **found to be** inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan.

### ~~12.3 Waiver of Procedural Steps.~~

~~The Board may allow an applicant to combine the final plan and preliminary plan application steps into one procedure, upon making all of the following written findings of fact:~~

~~No new streets are proposed;~~

~~No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a “Permit by Rule;”~~

~~The Board agrees to approve a waiver from the requirement to submit a stormwater management plan and sedimentation and erosion control plan, as ordinarily required by sections 6 or 7; and~~

~~The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.~~

### **12.3 Conditions for Waivers.**

When granting waivers, the Board shall set conditions of approval so that the purposes of applicable local ordinances and Maine statutes are met.

### **12.4 Waivers To Be Shown On Final Plan.**

When the Board grants a waiver to any of the improvements required by local ordinances, the Final Plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

## **ARTICLE 13 - APPEALS**

### **13.1 Administrative Appeals.**

The Board of Appeals shall hear and decide appeals where it is alleged that there is any error in any order, requirement, decision, or determination made by, or failure to act by, the Code Enforcement officer or the Planning Board in the administration of this Ordinance. When errors of administrative procedures or interpretation are found, the case shall be remanded to the Code Enforcement Officer or Planning Board for correction.

### **13.2 Variances.**

The Board of Appeals shall authorize variances upon appeal, within the limitations set forth in this Ordinance.

- A. Variances shall not be granted for establishment of any use otherwise prohibited by this Ordinance or by any other North Haven ordinance.
- B. The Board of Appeals shall not grant a variance unless it finds that:
  - 1. The proposed structure or use would meet the performance standards of this Ordinance except for the specific provision which has created the non-conformity and from which relief is sought; and
  - 2. The strict application of the terms of this Ordinance would result in an undue hardship. The term "undue hardship" shall mean all of the following:
    - a. The land in question cannot yield a reasonable return unless a variance is granted;
    - b. That the need for a variance is due to the circumstances of the property and not to the general conditions in the neighborhood;
    - c. That the granting of a variance will not alter the essential character of the locality; and
    - d. That the hardship is not the result of action taken by the applicant or a prior owner.

- C. The Board of Appeals may grant a variance to a property owner for the purpose of making that property accessible to a person with a disability who is living or regularly visits the property. The Board of Appeals shall restrict any variance granted under this Subsection solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability.
- D. The Board of Appeals may grant a variance to a property owner from a setback requirement only when strict application of this Ordinance to the petitioner and the petitioner's property would cause undue hardship. A variance under this section may not exceed 20% of setback requirement and may not be granted if the variance would cause the area of the dwelling to exceed the maximum permissible lot coverage (if applicable). If the petitioner has obtained the written consent of an affected abutting landowner, the 20% limitation may be extended. The term "undue hardship" for this section means:
  - 1. The need for a variance is due to the unique circumstances of the property and not to general conditions in the neighborhood;
  - 2. The granting of a variance will not alter the essential character of the locality;
  - 3. The hardship is not the result of action taken by the applicant or a prior owner;
  - 4. The granting of the variance will not substantially reduce or impair the use of abutting property; and
  - 5. The granting of a variance is based upon demonstrated need, not convenience, and no other feasible alternative is available.

### **13.3 Appeal to Superior Court.**

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

### **13.4 Variances Recorded.**

If the Board of Appeals grants a variance under this Ordinance, the final plan, to be recorded at the Registry of Deeds, shall indicate the variance(s) granted and the date on which they were granted. A variance is not valid until recorded as provided in this **Ordinance**. The date of the final written approval shall be the date stated on the written approval.