

Town of Skowhegan

Subdivision Review Ordinance

Ordinance History:

Approved March 6, 1989
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Amended March 8, 2004
Amended March 7, 2005
Amended June 7, 2010
Amended February 14, 2012
Amended June 11, 2012

ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA

1.1 **Purposes.** The purposes of this ordinance are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- B. To assure new development in the Town of Skowhegan meets the goals and conforms to the policies of the Skowhegan Comprehensive Plan;
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of Skowhegan;
- D. To protect the environment and conserve the natural and cultural resources identified in the Skowhegan Comprehensive Plan;
- E. To assure that a minimal level of services and facilities are 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 Town of Skowhegan; and
- G. To promote the development of an economically sound and stable community.

1.2. **Statutory Review Criteria:** When reviewing any application for a subdivision, the planning board shall find that the criteria found in Title 30-A M.R.S.A. §4404 have been met. As of the enactment of this ordinance, those criteria require that the proposed subdivision:

- A. Will not result in undue water or air pollution. In making this determination, it 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 availability of streams for disposal of effluents; and
 - 5. The applicable State and local health and water resources rules and regulations;
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be used;

- 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;
- F. 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 Town'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. Is in conformance with the duly adopted subdivision ordinance, comprehensive plan, development plan or land use plan. In making this determination, the board may interpret these ordinances and plans;
- J. The developer has adequate financial and technical capacity to meet the standards of this ordinance.
- K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, sections 435 through 490, or within 250 feet of tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water
- M. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that

- principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- N. 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;
 - O. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;
 - P. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
 - Q. The proposed subdivision will provide for adequate storm water management;
 - R. 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;
 - S. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
 - T. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
 - U. 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 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 been prepared in accordance with the provisions of Title 30-A M.R.S.A., §4403.
- B. These standards shall be known and may be cited as "Subdivision Ordinance of the Town of Skowhegan, Maine."

2.2 Administration.

- A. The Planning Board of the Town of Skowhegan, hereinafter called the Board, shall administer 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 Skowhegan.

2.3 Amendments.

- A. These regulations may be amended by a majority vote at a legally convened town meeting of the Town of Skowhegan.
- B. A public hearing shall be held prior to the enactment of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

2.4 Conflict with Other Ordinances

These Standards shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where these Standards impose a greater restriction upon the use of land or structure, the provisions of these Standards shall control.

2.5 Validity and Severability

If any section or provision of these Standards is declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

2.6 Abrogation

This Ordinance repeals and replaces any municipal ordinance previously enacted to control the development of Subdivisions in the Town of Skowhegan.

ARTICLE 3 -- DEFINITIONS

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

Abutting Property: All parcels of land which share a common boundary or adjoin at any line or point, or which are separated only by a street, right-of-way, or stream. An *abutter* is a person who is the listed owner of abutting property as recorded in the Town of Skowhegan tax records.

Building Envelope: The space within a lot in which a building may be placed. A building envelope excludes all areas which are unbuildable due to wetlands, excessive slopes, protected areas or legal restrictions such as setbacks, separation requirements or easements.

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by this ordinance, as determined by the planning office or by a vote by the board to waive the submission of required information.

Comprehensive Plan: The comprehensive plan of the Town of Skowhegan, or any other locally adopted policy documents including, but not limited to plans for open space, downtown redevelopment, or historic preservation.

Drinking Water Standards: Thresholds for contaminants set by the Maine Department of Health and Human Services. Standards have been established for contaminants which pose a health threat (“primary”) and those which pose an aesthetic concern (“secondary”).

Driveway: A vehicular access way serving one or two dwelling units or commercial traffic of fewer than 50 vehicle trips per day.

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

Farmland: Any area of five (5) or more acres of land that is classified as prime farmland, unique farmland, or farmland of statewide importance by the USDA Natural Resource Conservation Service, or is used for the production of agricultural products as defined in 7 M.R.S.A. section 152 (2).

Flood-prone Area: Those land areas which are susceptible to inundation during a 100-year flood (a flood with a one percent probability of occurring in any given year). Flood-prone areas shall include mapped areas of floodplain and floodway (zones A or AE). Where maps are unavailable or of insufficient accuracy, a determination may be made by a licensed professional surveyor.

Freshwater Wetland: A freshwater wetland means freshwater swamps, marshes, bogs and similar areas, which are:

- A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adopted for life in saturated soils; and
- B. Not considered part of a great pond, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of the subsection.

Frontage: That portion of a lot boundary which abuts a street or shoreline. A frontage measurement consists of the horizontal distance between the points where side lot lines intersect the street or shoreline. On lots with more than one frontage, such as corner lots, a requirement for street frontage shall apply to only one frontage.

Hydrogeologic Assessment: An assessment of groundwater quantity, quality, availability, and movement, for the purpose of determining whether adequate water supply exists for development needs without significant negative impact to neighboring properties.

Level of Service: A measurement of the traffic conditions on a street, based on a scale of A-F, as described by the *Highway Capacity Manual*, published by the Transportation Research Board.

Lot Length (Lot Width): The horizontal distance between front and rear (length) or side (width) lot lines. Where lots are not rectangular, length and width shall be calculated as the average distance between the most-parallel lines of the lot.

Medium Intensity Soil Survey: A soil survey designating areas of similar characteristics with accuracy as small as three acres. For Skowhegan, the *Soil Survey of Somerset County, Maine; Southern Part*, published by the USDA, Soil Conservation Service, is recognized as a medium intensity soil survey.

Mobile Home Park: A parcel of land under single ownership, improved for the placement of three or more mobile homes which are owned or leased by individuals other than the landowner.

Open Space: Land within or related to a subdivision, not within an individual lot or part of a right-of-way, which is essentially unimproved and set aside for the common use and enjoyment of residents of the subdivision.

Performance Guarantee: Any surety or commitment that may be accepted by the Town of Skowhegan to assure that infrastructure improvements required as part of the subdivision approval will be satisfactorily completed.

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 Skowhegan. Where the term “board” is used in this ordinance, it shall refer to the planning board unless a different board is specifically mentioned.

Point of Curvature: The point at which a straight line meets a curved line.

Principal Structure: Any building or structure in which the main use of the premise takes place.

Public Water Supply System: A water supply system that provides drinking water to at least 15 service connections or services water to at least 25 individuals daily.

Staff Review Committee: The committee established and described in section II.B of the Skowhegan Site Plan Review Ordinance.

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

Subdivision: A subdivision shall be as defined in 30-A M.R.S.A. section 4401, with the following modifications:

A lot of 40 (forty) or more acres shall not be counted as a subdivision lot for purpose of review; and

A new commercial development shall be reviewed exclusively under the Town of Skowhegan Site Plan Review Ordinance, regardless of the number of occupancies. An existing lot or building which is to be divided into multiple lots or occupancies shall be reviewed as a subdivision if it is not otherwise required to be reviewed under the Site Plan Review Ordinance.

Tract, or Parcel of Land: All contiguous land in same ownership, whether or not the tract is separated at any point by an intermittent or non-navigable stream, or a private road established by the abutting land owners.

Traffic Impact Analysis: A study and report assessing road and traffic conditions with and without the addition of traffic from a proposed development, and which includes an analysis of mitigation measures necessary to address congestion or unsafe conditions on public roads.

Variance: Modification or relief of a provision of this ordinance, as granted by the Skowhegan Board of Appeals. A variance shall only be granted in cases of undue hardship.

Vehicle Trip: A single, one-way motor vehicle movement past a point or into or out of a subject property.

Waiver: A modification of one or more submission requirements for subdivision review, granted by the planning board upon a finding that the submission requirement is not necessary to proper review of the application.

ARTICLE 4 -- PREAPPLICATION

4.1 Procedure:

The purpose of the preapplication is to provide the prospective applicant with guidance and direction to facilitate the application process, and to inform the planning board regarding the timing and scope of the application.

- 4.1.1 The prospective applicant shall submit to the Town a preapplication showing, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The sketch plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. The sketch plan may be accompanied by either a copy of the assessors map or the USGS topographic map showing the parcel to be subdivided.
- 4.1.2 The planning office shall schedule a preapplication review meeting with the planning board at the first meeting consistent with the item appearing on the published agenda (seven (7) days prior.)
- 4.1.3 The planning board, at the preapplication review meeting, will provide guidance to the prospective applicant as follows:
- A determination of the scope of the application, for example, whether it contains roads or other utilities which may require detailed information, or whether the proposed subdivision may need permits or review by state or federal agencies and the proposed timeline for approval;
 - A determination of a suitable contour interval to be utilized on the Plan, and whether additional submittals, such as a traffic study, erosion control plan, or analysis of special historic or ecological resources, should be included;
 - An opinion concerning any waivers to submission requirements to be proposed by the applicant.
 - An opinion on the requirement for and amount of a technical review fee.
- 4.1.4 The planning board may hold an on-site inspection of the property. The applicant shall, if requested by the board, place “flagging” at the center of any proposed streets and at the approximate intersections of the street center lines and lot corners prior to the on-site inspection.

4.2 Rights Not Vested:

The pre-application review 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.

ARTICLE 5 – REVIEW OF SUBDIVISION APPLICATIONS

5.1 General

Review of subdivision applications by the Town of Skowhegan is intended to meet the statutory requirements of 30-A M.R.S.A. §4401 et seq. and to give public service providers adequate information for the efficient servicing of the development. The application process is designed to permit information relevant to the development to be presented for technical review and board approval while incurring the least financial and administrative burden on the applicant.

5.2 Preliminary Review Procedure

5.2.1 In order to assure that the preapplication discussions between the board and the applicant remain timely, an application shall be submitted as soon as the applicant is prepared following the pre-application meeting. Under normal circumstances, the application should be submitted within ninety (90) days of the pre-application meeting; however, the board and applicant may mutually agree upon a longer time limit provided circumstances of the property or the law have not changed.

5.2.2 A completed application shall be submitted to the Skowhegan planning office. The planning office will provide the applicant with a dated receipt of application and fees. The planning office shall determine whether the application contains all of the elements required to be submitted by section 5.4 of this ordinance. The planning office will notify the applicant within ten (10) working days if the application is complete. If the application is not complete, the planning office will list the items that must be submitted to form a complete application. This procedure will be repeated until the application has been determined to be complete.

5.2.3 Upon determination that a complete application has been submitted, the planning office shall place the application on the agenda of the board for review at its next meeting, provided that the meeting is no less than fourteen (14) days in advance, to allow for adequate notice. The office shall also:

- Schedule a meeting of the Staff Review Committee;
- Notify, within seven (7) days, all owners of abutting property that an application for subdivision approval has been submitted and the time and place that the board will meet to discuss the application;
- Publish notice of the date, time, and place of the board's meeting in a newspaper of general circulation within the Town of Skowhegan at least two (2) times, the date of the first publication to be at least seven (7) days prior to the meeting; and
- When a Subdivision is located within 500 feet of a municipal boundary, notify the Clerk and the Planning Board of the adjacent municipality involved, at least ten (10) days prior to the meeting.

5.2.4 The Skowhegan Staff Review Committee shall meet on a date prior to the board's meeting, for the purpose of providing technical advice to the board's review. The applicant is not required to attend this meeting; however, he/she is strongly advised either to attend or to meet with or provide information to individual department heads/committee members prior to the meeting to facilitate discussion and answer questions. The staff review committee will prepare a written set of findings and recommendations to the board by the time of its meeting to review the application.

5.2.5 Board review of the application shall be conducted in open, public session. The conduct of the meeting shall be as follows:

- The applicant or his/her representative shall attend and give an oral presentation concerning the application;
- The planning office will present the findings and recommendations of the staff review committee;
- Members of the public who wish to may speak for, against, or concerning the application. The applicant may respond to questions if permitted by the Chairman of the board;
- The board will act on any request by the applicant to waive submission requirements;
- The board will engage in deliberations concerning the application. The applicant is entitled to participate in these deliberations. Members of the public may speak during this period only at the discretion of the Chairman of the board.
- The board shall make findings of fact and conclusions of law and shall vote to approve or deny the application.

5.2.6 The board is not required to complete review of the application in one meeting. The board may defer any portion of the decision-making process to a subsequent meeting. The vote to approve or deny the application will take place no more than thirty-five (35) days from the date of the initial meeting for board review, unless a delay is mutually agreed upon by the applicant and the board.

5.2.7 If any portion of the Subdivision crosses municipal boundaries, the board shall offer to meet jointly with reviewing authorities from each affected municipality to discuss the application.

5.3 Final Review Procedure

5.3.1 Preliminary approval of the application shall be conditional. When granting preliminary approval, the Board shall state, in writing, the conditions of such approval. Conditions shall include, but not be limited to:

1. The final subdivision plan will contain an actual field survey of the boundary lines of the tract and individual lots, giving complete descriptive data by bearings and distances. The corners of the tract and all lots shall be located on the ground and marked by monuments. The Plan shall indicate the type of

monument set or found at each lot corner and be signed and sealed by a licensed professional land surveyor.

2. The final plan will include final designs and cost estimates for any public improvements (roads, utilities, etc.) proposed to be built or improved. A performance guarantee shall be provided, in accordance with section 7.1 of this ordinance. The performance guarantee will be approved by the Skowhegan Board of Selectmen prior to submittal.
3. The final plan will be accompanied by a copy of any easements, rights-of-way, offers of cession of land or facilities, articles of incorporation and bylaws of homeowners' associations, or other legal documents associated with the plan. Where necessary, such documents will be approved by the Skowhegan Board of Selectmen prior to submittal.
4. If required, the final plan will include an *Erosion Control Plan*, prepared in accordance with or at least equivalent to the standards contained in the latest revised edition of the Environmental Quality Handbook published by the U.S. Soil Conservation Service. and a *Stormwater Management Plan* prepared by a Registered Professional Engineer, in accordance with or at least equivalent to the latest revised edition of Technical Release 55, Urban Hydrology for Small Watersheds, published by the U.S. Soil Conservation Service.
5. The final plan will be accompanied by copies of permits received by the applicant from state or federal reviewing authorities.

The final plan will show on its face the terms of any conditions imposed on approval by the board which cannot be met by the time of final plan signing.

- 5.3.2 The applicant shall submit the final plan to the Skowhegan planning office. If the plan is not received within twelve (12) months of approval of the plan by the board, the planning office may require a new planning board review of the application under the rules then applying.
- 5.3.3 The planning office shall review and certify that all of the documents and such changes as may be required by the board's conditions of approval have been included. The planning office shall make this determination within ten (10) working days of submission of the plan. The planning office shall inform the applicant in writing that all conditions of approval have been met, or shall note deficiencies.
- 5.3.4 The planning office shall submit the final plan to the board for final review and signature at the next available meeting, but not less than seven (7) days from the time of its determination. The planning office shall note in its submission any changes to the plan or continuing conditions of approval.

5.3.5 The signing by the board of a Subdivision Plan shall not be deemed to constitute or evidence acceptance by the Town of any street, easement or title to land area shown on such Plan.

5.4 Application Submission Requirements

5.4.1 All applications shall include sufficient and legible copies for technical and administrative review. These shall include:

- Eight (8) copies of the application, attachments, and plan drawings reduced to fit on 11 x 17 pages. *Except that* reports, plans, or third party permitting materials that exceed twenty pages in length may be submitted in electronic form.
- Three (3) copies of plan drawings at a size of 24 x 36 inches. Subdivision plats shall be drawn at a scale of no smaller than one hundred feet (100') to the inch. Design plans for streets, water and sewer facilities, and other infrastructure shall include plans, profiles, and cross-sections, as appropriate.
- For the final plan only, the page for planning board signature shall be 24 x 36 inches in size and shall be presented on a reproducible, stable based transparent original. Two (2) copies shall be provided, one to be retained by the Town and one to be filed in the Somerset County Registry of Deeds.
- The plat of the final plan shall also be submitted in electronic form, suitable to be imported into the Town's GIS database.

5.4.2 Application for subdivision approval shall be submitted on a form provided by the Town. The application shall be accompanied by the items listed in sections 5.4.3 and 5.4.4 below.

5.4.2.1 All applications shall be accompanied by a review fee in the amount specified in the fee schedule adopted by the Board of Selectmen.

5.4.2.2 Where required, an application shall be accompanied by a technical review fee in an amount to be specified by the board. The technical review fee is authorized to be assessed against the applicant to pay for the cost of professional expertise not ordinarily available to the board. To the extent that it is not used in review of the application, it shall be refunded to the applicant upon conclusion of the process.

5.4.3 Items to be included on the subdivision plan drawing:

1. Proposed name of the subdivision and municipality(ies) in which it is located, together with assessor's map and lot number(s) and street address if available.
2. Name and address of the applicant, his/her agent, and the person(s) who prepared the application.

3. Contour lines at the interval specified by the board, showing elevations in relation to Mean Sea Level. (Most common contour interval is five feet (5'))
4. The number of acres within the proposed subdivision, location of property lines, existing buildings, and other essential existing physical features.
5. The date the Plan was prepared, magnetic north point, declination, and graphic map scale.
6. The boundary lines of the tract being subdivided and the proposed lot lines with approximate dimensions and lot areas.
7. The boundaries of all water bodies, wetlands or significant vernal pools located on the tract, and location of any shoreland zoning boundaries affecting the tract.
8. If any portion of the Subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the Plan.
9. The approximate alignment and dimensions of any road(s) proposed to be constructed or improved to serve the subdivision.
10. The size, type, and location of water lines, sewer lines, hydrants, fire ponds, drainage facilities, street lights, electric and telephone lines and other utilities designed to service the subdivision.
11. The boundaries of any farmland within the tract.
12. A location map insert showing an outline of the subdivision and any remaining portion of the owner's property at a scale sufficient to show adjacent roads, water bodies, municipal boundaries and other significant features in the vicinity.

5.4.4 Items to be included with the application as attachments:

1. Verification of right, title, or interest in the property by means of a deed, lease, signed purchase and sales agreement or similar document.
2. A copy of the deed from which the original survey was based together with copies of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
3. A copy of any covenants or deed restrictions proposed to cover all or part of the subdivision.

4. Indication of the type of sewage disposal to be used in the Subdivision. When sewage disposal is to be accomplished by subsurface sewage disposal system, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits on the site shall be submitted. (Form HHE 200 – Page 2 of 3)
5. Indication of the type of water supply system(s) to be used in the Subdivision. When water is to be supplied by public water supply, a written statement from the water company shall be submitted indicating that the company has capacity to provide sufficient pressure and volume to the subdivision. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted in the form of test wells or a written statement from either a well driller or a geologist familiar with the area.
6. A description of fire protection measures to be available within the subdivision. Proposed sources of water not associated with the public water supply system must be reviewed by the fire chief prior to submittal of the application.
7. The names and addresses of owners of record of abutting property, including any property directly across an existing public street from the subdivision.
8. A medium intensity soil survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the applicant shall provide a high intensity soil survey or a report by a Registered Soil Scientist or Registered Professional Engineer experienced in geotechnics, indicating the suitability of soil conditions for those uses.
9. An estimate of the amount and type of vehicle trips to be generated on a daily basis and at peak hours. For subdivisions involving forty (40) or more parking spaces or projected to generate more than 400 vehicle trips per day, a traffic impact analysis, prepared by a Registered Professional Engineer with experience in traffic, shall be submitted. The *Traffic Impact Analysis* shall indicate recommended improvements to maintain the desired level of service on affected streets in the vicinity.
10. An affidavit that no timber harvesting has occurred on the tract within the preceding five (5) years, or if it has, that it has not been conducted in violation of rules adopted pursuant to 12 M.R.S.A. §8869(14). The affidavit may be signed by a licensed forester or an agent of the Maine Bureau of Forestry.
11. An estimate of the costs of public improvements and a proposed form of Performance Guarantee.

12. Any other plans or specifications as determined by the board, necessary to review the Subdivision, including, but not limited to, an erosion control plan, a preliminary street construction plan and a stormwater management plan.

5.5 Waivers to Submission Requirements

- 5.5.1 The board may grant a waiver to a submission requirement only where it finds that there are special circumstances of a particular development, provided the public health, safety, and welfare are protected, and provided the waiver would not have the effect of nullifying the intent and purpose of the Comprehensive Plan or this ordinance.
- 5.5.2 The board may grant a waiver of the submission requirements only upon viewing the otherwise-completed application. The submitted application shall specify any submission requirements proposed for waiver and the reasons for the request. The planning office will note the requested waivers in its report to the board and the board will act on them prior to its deliberation on the application.
- 5.5.3 The board shall make a written record of waivers granted and the reasons for granting them. The record shall be attached to the record of decision on the application.

5.6 Revisions to Approved Plans

- 5.6.1 An applicant for a revision to a previously approved Plan shall submit the application to the planning office. The application shall identify the subdivision and original approval date and describe the nature of the revision being sought. If the revision involves a change to any of the plan drawings, the revised plan drawing (s) shall be included with the application.
- 5.6.2 If the proposed revision does not involve the adjustment of lot boundaries or the creation of a new lot or unit, the planning office will act to approve or deny the application. The planning office will make a written record of its action to attach to the subdivision file. The planning office will act within ten (10) working days.
- 5.6.3 If the proposed revision does involve the adjustment of lot boundaries or the creation of a new lot or unit, the planning office will submit the application to the board for official review and action, in accordance with the procedure in section 5.2 of this ordinance. The planning office may require additional items to be submitted for the review, *provided that* the office shall not unreasonably impose submission requirements not related to the requested revision.
- 5.6.4 The board's scope of review shall be limited to those portions of the plan which are proposed to be revised. The board shall use the ordinance standards currently in effect at the time of review of the proposed revision.

5.7 Appeals

- 5.7.1 Any person aggrieved by a decision of the board or the planning office regarding any proposed Subdivision, or any person requesting a variance to the terms of this ordinance may appeal to the Board of Appeals created for such purposes - as provided by 30-A M.R.S.A. §2691 et seq. Any appeal must be submitted within thirty (30) calendar days of the date of the decision being appealed.
- 5.7.2 Any appeal taken to the Board of Appeals under this ordinance shall be an appellate review and shall be based on the evidence, testimony and information upon which the board or planning office made their original decision. No appeal shall be considered to be a “de novo” action.
- 5.7.3 The Board of Appeals shall grant a variance only when the applicant can prove a condition of undue hardship, as defined by 30-A M.R.S.A. section 4353(4) or successor statute.
- 5.7.4 Any person or Board aggrieved by any decision of the Board of Appeals may appeal such decision to Somerset County Superior Court within thirty (30) days.

ARTICLE 6 – REVIEW CRITERIA AND STANDARDS

6.1 Interpretation of Criteria and Standards

The provisions of this article are intended to assure that each of the statutory review criteria has been met. Each criterion is accompanied by a set of development standards. Compliance with development standards is *prima facie* evidence of meeting the criteria. However, applicants for subdivision approval may propose alternative designs and approaches that will satisfy the criteria equally as well or better than the ordinance standards. In all instances, the burden of proof shall be on the applicant to demonstrate that criteria have been met. This shall not be construed as limiting the authority of the board to require additional evidence or impose additional standards based on characteristics of the site or development.

6.2 Pollution

6.2.1 *Criterion:* Will not result in undue water or air pollution.

6.2.2 *Standard:*

Discharge of point source pollutants is regulated by the Maine Department of Environmental Protection pursuant to the federal Clean Air Act. The applicant may demonstrate compliance with this criterion if he or she is required to obtain a permit from Maine DEP and does so.

Non-point pollutants are controlled by the proper management of storm water. The applicant will identify all land disturbance created by development of the subdivision, and will provide for management of storm water flows as provided in section 6.18, below.

6.3 Sufficient Water

6.3.1 *Criterion:* Has sufficient water available for the reasonably foreseeable needs of the subdivision;

6.3.2 *Standards:*

6.3.2.1 The applicant shall provide a written statement from the water company that adequate water for both domestic and fire fighting purposes can be provided without placing an undue burden on the source, treatment facilities or distribution system involved.

6.3.2.2 When the location of a subdivision does not allow for a financially reasonable connection to a municipal water supply system, based on a fiscal analysis, the

board may allow the use of individual wells or a licensed public community water system.

6.3.2.2.1 If a public water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system and shall conform to the Standards of the Maine Rules Relating to Drinking Water (10-144 A.C.M.R. 231). The applicant will demonstrate that an adequate wellhead protection zone exists and submit a wellhead protection management plan.

6.3.2.2.2 If individual wells are proposed for the subdivision, the applicant will provide evidence of the quantity and quality of the aquifer. A test well may be driven on the tract and test results provided to the board or the applicant may provide test results demonstrating both quantity and quality from at least two (2) existing wells within five hundred (500) feet of the tract to be subdivided.

6.3.2.3 If proposed lots will not be accessible to the public water supply, the subdivider will construct ponds, dry hydrants, or measures to provide for adequate water storage for firefighting purposes. An easement shall be granted to the Town granting access to the water source where necessary. If buildings within the subdivision will be provided with sprinkler systems, the board may reduce this requirement accordingly.

6.4 Impact on Existing Water Supplies

6.4.1 *Criterion:* Will not cause an unreasonable burden on an existing water supply, if one is to be used.

6.4.2 *Standards:*

6.4.2.1 When a Subdivision is to be served by a public water system, the complete distribution system, including expansion of existing distribution lines if necessary, shall be installed at the expense of the subdivider.

6.4.2.2 The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the water company.

6.5 Soil Erosion

6.5.1 *Criterion:* Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

6.5.2 *Standards:*

- 6.5.2.1 Soil erosion and sedimentation of watercourses and water bodies must be minimized by an active program meeting the requirements of *Maine Erosion and Sediment Control BMPs*, published by DEP (March, 2003 or as revised). All areas of soil disturbed in the development of the subdivision will be addressed by the provisions of the Erosion Control Plan prepared in accordance with the above-cited manual.
- 6.5.2.2 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.
- 6.5.2.3 Except for normal thinning, landscaping, and cutting trees to provide access to sunlight, existing vegetation shall be left intact to prevent soil erosion and minimize storm water runoff.

6.6 Traffic Conditions

6.6.1 *Criterion:* 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.

6.6.2 *Standards:*

6.6.2.1 Provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to safeguard against hazards to traffic and pedestrians, to avoid traffic congestion on any street, and to provide safe and convenient circulation on public streets and within the subdivision. More specifically, access and circulation shall conform to the following standards and the design criteria below:

1. Vehicular access to the subdivision should be arranged, whenever possible, to avoid traffic use of existing residential streets.
2. Where a subdivision lot is proposed to have frontage on two or more streets, access to the lot shall be restricted to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.
3. The street giving access to the subdivision and neighboring streets which can be expected to carry traffic to and from the subdivision shall have traffic carrying capacity adequate to meet Level of Service C. If streets cannot meet this level of service, they shall be suitably improved to accommodate the amount and types of traffic generated by the proposed subdivision.
4. If the proposed subdivision requires driveways or street entrances onto a state or state aid highway, located outside the urban compact, the applicant shall provide documentation indicating that the driveways or entrances

conform to Maine DOT Chapter 299, *Highway Driveway and Entrance Rules*.

5. All access ways, as well as streets, alleys, sidewalks, and other transportation infrastructure, shall conform to the design and construction standards of the Town of Skowhegan *Road and Entrance Design Standards Ordinance*.
6. Where topographic and other conditions allow, provision on the plan shall be made for connections to adjoining lots of similar existing or potential use wherever:
 - a. the access connection will facilitate fire protection services as approved by the Fire Chief;
 - b. the adjoining tract is deeded to or otherwise under the control of the subdivider; or
 - c. it would enable the public to travel between adjacent developments without need to travel upon a street outside the subdivision.

6.7 Sewage Disposal

6.7.1 *Criterion:* Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.

6.7.2 *Standards:*

6.7.2.1 The Town of Skowhegan *Sewerage Ordinance* requires that any development on a lot located in proximity to existing public sewer is required to connect to it. In the case of a subdivision, this requirement shall apply to the original parcel before subdivision, and the applicant shall show location and design of the system within the subdivision. The board may waive the requirement for lots which are isolated by a watercourse or other topographical challenge from the remainder of the subdivision. The complete system, including manholes, pump stations, an expansion of lines outside of the subdivision, if necessary, shall be installed at the expense of the applicant. The Supervisor of the Pollution Control Facility shall certify that providing service to the proposed subdivision is within the capacity of the system's collection and treatment system. The Road Commissioner and/or Pollution Control Facility Supervisor shall review and approve in writing the construction drawings for the sewage system.

6.7.2.2 Where an individual subsurface wastewater disposal system is proposed, the applicant shall submit evidence of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

On lots in which the limiting factor has been identified as being within twelve (12) inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the system. The reserve area shall be designated on the plan as not to be built upon.

6.8 Solid Waste

6.8.1 *Criterion:* Will not cause an unreasonable burden on the Town's ability to dispose of solid waste.

6.8.2 *Standard:*

If solid waste estimated to be generated by the proposed subdivision exceeds the capacity of the Town of Skowhegan Solid Waste Facility, or would cause the facility to no longer be in compliance with its license from the Maine Department of Environmental Protection, the applicant will make alternate arrangements for disposal of solid waste from the subdivision.

6.9 Aesthetic, Cultural, and Natural Values

6.9.1 *Criterion:* Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

6.9.2 *Standards:*

6.9.2.1 The board may require the reservation of open space within a proposed subdivision in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. In determining the need for open space the board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the comprehensive plan for open space or recreation facilities in the neighborhood of the Subdivision; the type of development and the demographic characteristics of potential residents in the Subdivision; and the density or lot sizes of the development.

Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. A site for scenic or passive recreation purposes shall have no less than twenty-five (25) feet of road frontage. Sites shall be deemed adequate by the board with regard to scenic or natural attributes to be preserved.

- 6.9.2.2 The board may require that the application include a landscape plan that will show the extent of preservation of existing trees, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally significant areas. Cutting of trees on the northern borders of lots should be avoided as far as possible, to retain a natural wind buffer.
- 6.9.2.3 If the proposed subdivision contains any historical or archeological sites identified by the comprehensive plan or reports from the Heritage Council, the applicant shall contact the Maine State Historic Preservation Commission for a review of the development plan and recommendations for preserving the resources. The applicant shall describe how historic or archeological resources on the site will be avoided or preserved.
- 6.9.2.4 If any portion of the tract to be subdivided contains areas identified on maps published by the Beginning with Habitat Program of the Maine Department of Conservation as being significant wildlife habitat, habitat for threatened or endangered species, or a critical natural area, the applicant will propose that these areas be shown on the subdivision plan as designated open space or part of lots of no less than ten (10) acres.
- 6.9.2.5 Any public rights of access to the shoreline of a water body or to abutting property shall be included by means of easements or right-of-way, or should be included in the open space, with provisions made for continued public access.

6.10 Conformity with Local Ordinances and Plans

6.10.1 *Criterion:* Is in conformance with the duly adopted plans and ordinances for the Town of Skowhegan.

6.10.2 Standards

- 6.10.2.1 Lots within the proposed subdivision will conform to the dimensional standards and design criteria below:
1. All lots proposed to be connected to the public sewer line shall have a minimum of one hundred feet (100') of frontage on an existing or proposed street and contain not less than 10,000 square feet. No more than two (2) dwelling units may occupy a lot of less than 20,000 square feet.
 2. All lots serviced by individual subsurface wastewater disposal systems shall have a minimum of two hundred (200') feet of frontage on an existing or proposed street and contain not less than 40,000 square feet exclusive of areas of identified wetland.
 3. Lots proposed for multi-family dwellings to be connected to the public sewer shall have a minimum of two hundred (200) feet of frontage on an

existing or proposed street and shall contain a minimum of 10,000 square feet for the first dwelling unit and 5,000 square feet for each additional dwelling unit. All other multi-family dwelling lots shall have a minimum of (200') feet of frontage on an existing or proposed street and shall contain a minimum of 20,000 square feet for the first dwelling unit and 5,000 square feet for each additional dwelling unit. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities.

4. A subdivision proposed for commercial or industrial use shall have a minimum of one hundred (100) feet of frontage on an existing or proposed street and shall contain a minimum of 10,000 square feet for each building or building division. All commercial or industrial subdivisions shall access the public sewer system.
 5. Lots within a mobile home park shall not be less than fifty (50') feet in width:
 - a) Lots connected to the public sewer shall contain not less than 6,500 square feet;
 - b) Lots connected to a central, on-site subsurface wastewater disposal system approved by the Maine Department of Human Services shall contain not less than 12,000 square feet;
 - c) Lots served by individual subsurface wastewater disposal systems shall contain not less than 20,000 square feet.
 6. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as to either facilitate or preclude future additional divisions.
 7. Wherever possible, side lot lines should be perpendicular to the street.
 8. If a lot on one side of a road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the road to meet the requirement.
 9. Where public utilities could be extended to the subdivision in the foreseeable future, the subdivision shall be designed to accommodate the extensions of utilities.
- 6.10.2.2 Lots subject to the Skowhegan Shoreland Zoning Ordinance and/or Flood Management Ordinance shall comply with the provisions of those ordinances with regard to lot size.
- 6.10.2.3 Clustering of Lots: In order to reduce the costs of installing utilities (roads, water, sewer), promote more affordable housing, or preserve open space and resource land, a developer may propose to cluster lots within a subdivision.

Clustering means that dwelling units will be located closer together, and land will be associated with the subdivision which is not developed. The following provisions are intended to protect residents and the Town from potential negative impacts of this design.

1. Lots connected to the public sewer or to a common subsurface wastewater treatment facility may be reduced to no less than four thousand (4,000) square feet, with a street frontage no less than fifty (50) feet.
2. Lots to be served by individual subsurface wastewater treatment systems may be reduced to no less than twenty thousand (20,000) square feet in area, with a street frontage no less than one hundred (100) feet.
3. If lots are located within a shoreland zone, lot sizes shall not be reduced below the minimum required in that zone.
4. The total number of lots may exceed the number permitted by conventional subdivision by no more than twenty (20) percent. The number of lots permitted by conventional subdivision shall be calculated based on the following formula:

Total acreage of the parent parcel less the acreage of land unbuildable due to wetlands or slopes exceeding 25 percent, less the acreage of existing easements for rights-of-way, utilities or drainage; the result divided by the minimum lot size permitted under conventional subdivision.

5. The plan shall illustrate the placement of buildings and the treatment of open space, roads, service and parking. Building envelopes shall be drawn on the plan, and shall be separated by no less than twenty (20) feet in distance. Building envelopes shall exclude areas unbuildable due to wetlands, steep slopes, or utility or drainage easements. The plan shall contain a note that all buildings will be placed within the building envelope.
6. Proposed common land/open space shall be identified as a separate lot within the development. The precise description of the property restricted and the legal mechanism for the restriction shall be provided to the board. Common land or open space shall be identified on the subdivision plan with the words: "Not to be developed." Further subdivision of the open space lot and its use for other than non-commercial recreation, forestry, agriculture or conservation purposes, except for easements for underground utilities, shall be prohibited.
7. Ownership of the open space may be retained by the developer or transferred to a homeowners association as described in section 6.11.2.4, or to an association which has as its principal purpose the conservation or preservation of land, or proposed for transfer to the Town of Skowhegan or State of Maine. When open space is to be owned by an entity other than the Town of Skowhegan or State of Maine, there

shall be an easement in place prohibiting future development, except for structures and buildings accessory to uses listed in subsection 6, above.

8. A portion of proposed open space shall be suitable for use for passive recreation by owners of lots within the subdivision. The development shall be designed so that each lot has access to the open space, either directly abutting the parcel or along road frontage. Where the subdivision 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.

6.10.2.4 All proposed lots shall be surveyed and monuments placed to designate lot boundaries. Monuments shall be placed as follows:

1. Stone monuments or iron pins shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
2. Stone monuments or iron pins shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the boundaries is 135 degrees or less.
3. Stone monuments shall be a minimum of four (4") inches square at the top and four (4') feet in length, and set in the ground at final grade level. After they are set, drill holes ½ inch deep shall locate the point or points described above.
4. Iron pins shall be of adequate size (no less than 1/2" bar) to identify corners and shall bear the number of the professional land surveyor who installed them.
5. All other Subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monuments.

6.11 Financial and Technical Capacity

6.11.1 *Criterion:* The developer has adequate financial and technical capacity to meet the standards of this ordinance.

6.11.2 *Standards:*

6.11.2.1 The applicant shall demonstrate that he or she has adequate financial resources to complete the subdivision development. "Adequate financial resources" may be demonstrated by the development of an estimate of construction costs to be incurred with the subdivision and a plan for providing or obtaining the resources necessary to meet the costs.

6.11.2.2 The applicant shall demonstrate that he or she has the technical capacity to complete the subdivision development. The applicant will provide names and

addresses of contractors, engineers, or other professionals retained for the development or describe the process by which such individuals will be hired.

- 6.11.2.3 The applicant shall make provision for long-term maintenance of all land and facilities proposed for the general benefit of occupants of the development including but not limited to common open space, landscaping, drainage systems, private roads and parking lots, community recreation facilities or sewerage systems.
- 6.11.2.4 Within a residential subdivision, common land and facilities shall be placed under the ownership of a homeowner's association to be formed prior to the sale of lots. Division of interests or fractional ownership of common property shall be prohibited. Articles of incorporation and bylaws for a homeowners association shall be submitted to the Town prior to final review. Articles of incorporation shall require mandatory membership of all owners of property within the subdivision. Bylaws shall provide mechanisms for management and maintenance of common property, including provision for allocating costs among property owners and mandating payment. A transition arrangement shall be provided, with the developer responsible for maintenance until a sufficient number of lots have been sold to support the association.
- 6.11.2.5 The board shall not approve an application from a person who is in default on a previously approved subdivision or commercial development plan.

6.12 Surface Waters

6.12.1 *Criterion:* Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.

6.12.2 *Standard:*

The applicant will demonstrate that he or she has complied with all of the terms of the Town of Skowhegan Shoreland Zoning Ordinance. All permits required to be obtained under the Shoreland Zoning Ordinance will be provided prior to final review of the application.

6.13 Ground Water

6.13.1 *Criterion:* Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

6.13.2 *Standards:*

- 6.13.2.1 No subdivision shall increase any contaminant 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.

- 6.13.2.2 If ground water already contains contaminants in excess of the Primary Standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
- 6.13.2.3 If ground water already contains contaminants in excess of the Secondary Standards, the subdivision shall not cause the concentration of the substance in question to exceed 150% of the existing concentration.
- 6.13.2.4 The board may require a hydrogeologic assessment of the tract to be subdivided if it is located above the sand and gravel aquifer mapped for the Town of Skowhegan or if it exceeds forty (40) lots or dwelling units with individual wells and septic systems, or if it is a commercial or industrial subdivision. When a hydrogeologic assessment is required, the assessment should contain at least the following information:
1. A map showing the basic soils types.
 2. The depth to the water table at representative points throughout the subdivision.
 3. Drainage patterns throughout the subdivision.
 4. Data on existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
 5. 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.
 6. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential development, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentration at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. For subdivisions within the watershed of a lake, projections of the subdivision's impact on phosphate concentrations shall also be provided.
- 6.13.2.5 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 are recommended in the assessment, those standards shall be included as a condition of plan approval, and as restrictions in the deeds to the affected lots.

6.14 Flood Areas

6.14.1 *Criterion:* Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area.

6.14.2 *Standards:*

6.14.2.1 If the subdivision, or any part of it, is in a flood-prone area, the applicant shall map the 100-year flood elevation and flood hazard boundaries within the subdivision.

6.14.2.2 All public utilities, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damage.

6.14.2.3 The plan shall indicate that all principal structures on lots in the subdivision shall be constructed with their lowest habitable floor, including the basement, at least one foot above the 100 year flood elevation. This provision shall also be included in the deed to any lot wholly or partially within the flood prone area.

6.15 Freshwater Wetlands

6.15.1 *Criterion:* 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.

6.15.2 *Standard:*

Freshwater wetlands shall be delineated on the ground and on plan drawing submitted with the application. Wetlands shall be identified in accordance with the *1987 Corps. of Engineers Wetland Delineation Manual* or subsequent revision. Mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

6.16 Farmland

6.16.1 *Criterion:* All farmland within the proposed subdivision has been identified on maps submitted as part of the application.

6.16.2 *Standard:*

All areas of farmland must be identified on one or more plan drawings. Farmland is defined by state statute as any area of five (5) or more acres of land that is classified as prime farmland, unique farmland, or farmland of statewide importance by the USDA Natural Resource Conservation Service, or is used for the production of

agricultural products as defined in 7 M.R.S.A. section 152 (2). Any mapping of farmland may be done with the help of the local soil and water conservation district.

6.17 River, Stream or Brook

6.17.1 *Criterion:* Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application.

6.17.2 *Standard:*

All rivers, streams and brooks within the proposed subdivision shall be depicted on one or more plan drawings. For purposes of this section, "river, stream or brook" has the same meaning as in 38 MRSA, section 480-B(9).

6.18 Storm Water

6.18.1 *Criterion:* The proposed subdivision will provide for adequate storm water management.

6.18.2 *Standards:*

6.18.2.1 Adequate provisions must be made for the collection and disposal of all stormwater that runs off proposed streets, parking areas, other impervious surfaces. A *Stormwater Management Plan* will be required when the subdivision involves the construction or improvement of roads.

6.18.2.2 To the extent possible, the plan should retain stormwater using the natural features of the site and without adverse impacts on abutting or downstream properties.

6.18.2.3 Unless the discharge is directly to the Kennebec River, stormwater runoff systems must detain or retain water such that the rate of flow from the site after development does not exceed the predevelopment rate. The applicant must demonstrate that on- and off-site downstream channel or system capacity is sufficient to carry the flow without adverse effects, including but not limited to, flooding and erosion of shoreland areas, or that he/she will be responsible for whatever improvements are needed to provide the required increase in capacity and/or mitigation.

6.18.2.4 Any applicant for a project which requires a Stormwater Management Permit from the Maine Department of Environmental Protection must submit a copy of the approved permit at time of final review.

6.18.2.5 For projects which do not require a Stormwater Management Permit, the use of Low Impact Development techniques, consistent with the publication

Stormwater Management for Maine, (DEP, January 2006 or as revised) is highly encouraged.

- 6.18.2.6 For projects involving structural treatments such as detention ponds, a Stormwater Maintenance Agreement must be submitted at the time of application. The SMA must indicate how stormwater management structures will be maintained through the course of their projected life.
- 6.18.2.7 The biological and chemical properties of receiving waters must not be degraded by stormwater runoff. The use of oil and grease traps in catch basins, the use of on-site vegetated waterways, and vegetated buffer strips along waterways and drainage swales, and the reduction in use of deicing salts and fertilizers may be required.

6.19 Spaghetti Lots Prohibited

6.19.1 *Criterion:* If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in 38 MRSA, section 480-B, none of the lots created within the subdivision will have a lot depth to shore frontage ratio greater than 5 to 1.

6.19.2 *Standards (Apply to all lots):*

- 6.19.2.1 The ratio of lot length to width shall not be more than five to one (5:1) except where the rural setting of the lot and topographic configuration of the land will permit a greater ratio, there is no shore frontage involved, and deed covenants or other restrictions prevent the resubdividing of the lot.
- 6.19.2.2 Panhandle (“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.

6.20 Lake Phosphorous Concentration

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

6.20.2 *Standard:*

If the proposed subdivision is to be located all or part within the direct watershed of Lake George or Oak Pond, the application will demonstrate that the export of phosphorous will be consistent with the standards of the DEP manual *Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development*, revised May 1992, or as further revised. In calculating the allowable level of

phosphorous import, a “moderate” level of lake water quality protection is to be assumed.

6.21 Impact on Adjoining Municipality

6.21.1 *Criterion:* For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

6.21.2 *Standard:*

If any proposed subdivision crosses municipal boundaries, the board shall conduct a review parallel to the review of the adjoining municipality, and shall attempt to conduct at least one (1) joint meeting. If either municipality requests a traffic study or traffic impact analysis of the applicant, the study shall be made available to both review authorities.

6.22 Lands Subject to Liquidation Harvesting

6.22.1 *Criterion:* Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 MRSA, section 8869, subsection 14, adopted by the Maine Forest Service to substantially eliminate liquidation harvesting.

6.22.2 *Standards:*

6.22.2.1 If the tract to be subdivided shows evidence of having been forested within the preceding ten (10) years, the applicant shall submit an affidavit concerning the status of timber harvesting operations. The affidavit shall be signed by the Department of Conservation, Bureau of Forestry or a forester licensed pursuant to Title 32, chapter 76. The affidavit shall state whether the timber was harvested in compliance with 38 MRSA, section 8869.

6.22.2.2 If a violation of the above-cited rules adopted by the Maine Forest Service has occurred, the board must determine prior to granting approval for the subdivision that five (5) years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. The board may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred.

ARTICLE 7 -- POST APPROVAL ACTIVITIES

7.1 Performance Guarantees

With submittal of the application for approval, the applicant shall provide a proposal for one of the following forms of Performance Guarantee. The guarantee must be for an amount adequate to cover the total construction costs of all required improvements and streets, taking into account the time span of the construction schedule and the inflation rate for construction costs. The type, conditions and amount of the Performance Guarantee shall be determined by the board with the advice of Road Commissioner, Board of Selectmen, and/or Town Attorney.

7.1.1 Conditional Agreement: The board at its discretion may permit the subdivider to enter into a binding agreement with the Town in lieu of financial performance guarantees. Such an agreement shall provide for approval of the plan on the condition that no lot may be sold or built upon until either:

1. It is certified by the board and the Road Commissioner or their agent that all the required improvements have been installed in accordance with this ordinance and the board's conditions of approval, or
2. A financial guarantee acceptable to the Town is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portion of the required improvements already installed.

All conditional agreements shall have a time limit for completion and shall be approved by the board and by the Board of Selectmen prior to final review of the plan. Notice of the agreement and any conditions shall be noted on the plan which is recorded at the Somerset County Registry of Deeds.

Release from the agreement shall follow the procedures contained in Section 7.1.7.

7.1.2 A Cash Bond for the establishment of an escrow account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town of Skowhegan, a direct deposit into a savings account, or the purchase of a certificate of deposit naming the Town as owner. For any account established by the subdivider, the Town of Skowhegan shall be named as owner or co-owner, and the consent of the Town shall be required for withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the Town has found it necessary to draw on the account, in which case, the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

- 7.1.3 A Performance Bond payable to the Town issued by a surety company licensed to practice in the State of Maine and approved by the Board of Selectmen or Town Manager. The Performance Bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider, and the procedures for collection by the Town. The bond documents shall specifically reference the Subdivision for which approval is sought.
- 7.1.4 An irrevocable letter or line of credit from a financial institutional licensed to practice in the State of Maine, establishing funding for the construction of the improvements, from which the Town may draw if construction is inadequate. An irrevocable letter of credit shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan.
- 7.1.5 Contents of Guarantees: 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 of or all of the Guarantee to the subdivider, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.
- 7.1.6 Final Approval of Guarantees: The performance guarantee submitted for final review shall have received approval from the Town Manager or Board of Selectmen. All necessary agreements and other documents shall have been fully executed.
- 7.1.7 Release of Guarantees: Financial Performance Guarantees shall remain in effect for one year after completion of construction unless other arrangements are made, in writing, with the board or the Board of Selectmen. 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 Code Enforcement Officer (and any other departments involved) that the improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- 7.1.8 Default: If, upon inspection, the Code Enforcement Officer finds that any of the required improvements have not been constructed in accordance with the plan specifications filed as part of the application, he or she shall so report in writing to the Board of Selectmen, the board and the subdivider or builder. The Board of Selectmen shall take any steps necessary to preserve the Town's rights.

7.2 Enforcement

7.2.1 Violations and Enforcement:

- 7.2.1.1 No plan of a division of land within the Town of Skowhegan which would constitute a subdivision shall be recorded in the Registry of Deeds until a Plan has been approved in accordance with this ordinance.

- 7.2.1.2 No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision, which has not been approved by the board and recorded in the Registry of Deeds, nor may they convey, offer or agree to convey any land in an approved subdivision which is not shown on the approved Plan as a separate lot.
- 7.2.1.3 No public utility, water company, sanitary district or any utility company of any kind shall serve a lot in a subdivision for which a Plan has not been approved.
- 7.2.1.4 Development of a subdivision without 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 approval under this ordinance.
- 7.2.1.5 No lot in a subdivision may be occupied and no occupancy permit will be issued 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 multi-family development shall be occupied before the driveway and parking lot serving the unit is completed in accordance with this ordinance.
- 7.2.1.6 Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this ordinance and under Title 38, chapter 3, subchapter 1, article 6 481-490, where applicable, shall be penalized in accordance with 30-A MRSA, section 4452.
- 7.2.1.7 Any person who sells, leases or conveys for consideration any land or dwelling unit in a subdivision approved under this ordinance and exempt from Title 38, chapter 3, subchapter 1, article 6, 481-490, because of the operation of Title 38, Section 488, Subsection 5, shall include in the instrument of sale, lease or conveyance a covenant to the transferee that all the requirements of Title 38, section 488, subsection 5, have been, and will be satisfied.

7.2.2 Enforcement Authority:

- 7.2.2.1 The Code Enforcement Officer shall be responsible for enforcing the provisions of this ordinance and shall have the following powers and duties:
 - 1. To enter property at reasonable hours and to enter any building with the consent of the property owner, occupant or agent to inspect the property for compliance with the provisions of this Ordinance.
 - 2. To issue a summons to any person who violates any provision of the ordinance.

3. When specifically authorized by the Board of Selectman to represent the Town of Skowhegan in the District Court in the prosecution of alleged violations of this ordinance.

7.2.2.2 The Board of Selectmen, upon notice from the Code Enforcement Officer, is hereby authorized to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the Town of Skowhegan. The Board of Selectmen, or their designated agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines without court action. If, however, the Town is the prevailing party it may collect attorney's fees and court costs.

7.2.3 Inspection of Required Improvements:

7.2.3.1 At least five (5) days prior to commencing each major phase of construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when they propose to commence construction of such improvements, so that the Board of Selectmen can cause inspection to be made to assure that all specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements.

7.2.3.2 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 specification filed by the subdivider, he shall so report in writing to the Town Manager, planning board, and the subdivider or builder. The Town Manager shall take any steps necessary to preserve the Town's rights, including declaring the subdivision to be in default of its obligations.

7.2.3.3 At any time 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 planning board. Revised plans shall be filed with the Town. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than one percent (1%), etc., the subdivider shall obtain permission to modify the plans from the board.

7.2.3.4 By December 1 of each year during which construction is done on the site, the inspecting official shall submit a report to the planning board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate to do the job they were designed for. The report shall also

include a discussion and recommendations on any problems which were encountered.

- 7.2.3.5 Upon completion of street construction and prior to a vote by the Board of Selectman to submit a proposed town way to a town meeting, a written certification signed by a Registered Professional Engineer shall be submitted to the Board of Selectman at the expense of the subdivider, certifying that the proposed town way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. All fire hydrants will also be certified to meet construction and capacity specifications.
- 7.2.3.6 The subdivider or builder shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Town.