

1 16.8 Subdivision Review

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16.8.1 General

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The purpose of this chapter is to assure the comfort, convenience, safety, health, and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To that end, the Planning Board will evaluate proposed subdivisions using the following criteria. The subdivision provisions set forth in these regulations are intended to protect the public health and safety, promote the general welfare of the community, and conserve the environment by assuring that nonresidential and multifamily construction is designed and developed in a manner that assures that adequate provisions are made for traffic safety and access; emergency access; water supply; sewage disposal; management of storm water, erosion, and sedimentation; protection of groundwater; protection of the environment, wildlife habitat, fisheries, and unique natural areas; protection of historic and archaeological resources; minimizing the adverse impacts on adjacent properties; and fitting the project harmoniously into the fabric of the community.

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16.8.2 Authority and Statutory Review Criteria

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- A. These standards have been prepared in accordance with the provisions of 30-A M.R.S.A. § 4401 et seq., and all amendments thereto.
- B. When reviewing any application for a subdivision, the Planning Board shall find that the criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of Title 16, Land Use and Development Code have been met, before granting approval.

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16.8.3 Preapproval development prohibited

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The applicant or applicant's authorized agent must obtain final Planning Board approval before:

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- A. Any contract or offer for the conveyance of the proposed development (or portion thereof) has been made;
- B. Any subdivision into three or more lots has been recorded in the York County Registry of Deeds;
- C. A building/regulated activity permit for any structure within the development is issued; or
- D. Work on any improvements (including installation of roads or utilities or land clearing) has begun.

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16.8.4 Other Potential Reviews

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- A. Shoreland development review.
[Amended 7-25-2016 by Ord. No. 16-02]
 - (1). All development in the Shoreland, Resource Protection, and Commercial

68 Fisheries/Maritime Uses Overlay Zones involving the use, expansion,
69 change or replacement of an existing use or structure, or renewal of a
70 discontinued nonconforming use, must be reviewed and approved as
71 provided in § 16.10.10 and elsewhere in this title, and tracked as a
72 shoreland development for reporting purposes.

73 (2). All development in the Shoreland, Resource Protection, and Commercial
74 Fisheries/Maritime Uses Overlay Zones must be approved by the Planning
75 Board except for the following:

76 a. Proposed development of principal and accessory structures in
77 compliance with § 16.3.2.17D(2), when not subject to Planning
78 Board review as explicitly required elsewhere in this title. Such
79 proposed development must be reviewed and approved by the
80 Code Enforcement Officer (CEO) prior to issuing a building
81 permit. The total devegetated area of the lot (that portion within the
82 Shoreland Overlay Zone) must be calculated by the applicant and
83 verified by the CEO and recorded in the Town's property records.
84 Any development proposed in the Resource Protection and
85 Shoreland - Stream Protection Area Overlay Zones must be
86 approved by the Planning Board.

87 b. Piers, docks, wharves, bridges and other structures and uses
88 extending over or below the highest annual tide (HAT) elevation,
89 subject to review and approval by the Port Authority as outlined in
90 Chapter 16.11, Marine-related development.

91 c. Division of a conforming parcel that is not subject to subdivision
92 as defined in § 16.2.2.

93 d. Clearing of vegetation for activities other than timber harvesting.
94 These are subject to review and approval by the Shoreland
95 Resource Officer or Code Enforcement Officer.

96 (3). Establishment of new commercial or business entity in an existing facility,
97 where intensity of use is not significantly different.

98 16.8.5 Application and Review Fees

99 A. Review fee(s); reimbursements.

100 (1). All applications for plan approval for properties which come under this
101 title must be accompanied by a fee as determined by the Town Council.

102 (2). The applicant must reimburse the Town for all expenses incurred for
103 notifying abutters of the proposed plan and advertising of any public
104 hearing regarding a development.

105 B. Independent peer review.

106 [Amended 9-28-2015 by Ord. No. 15-08]

107 (1). The Planning Board or, after the Town Manager's approval, the Town
108 Planner and the Code Enforcement Officer, may require an independent
109 consultant or specialist engaged by the Town, at the applicant's expense,

- 110 to:
- 111 a. Determine compliance with all requirements of this title related to
- 112 public health, safety and welfare and the abatement of nuisances;
- 113 or
- 114 b. Assist with the technical review of applications submitted for new
- 115 or amended development.
- 116 (2). When peer review is required of the applicant, sufficient funds, based on a
- 117 written estimate by the required consultant, must be deposited in an
- 118 applicant's service account per Chapter 3.3, prior to commencing said
- 119 review and continuing with the review of the development plan
- 120 application.

121 16.8.6 Applicant attendance at review meeting(s)

122 The applicant or duly authorized representative must attend all Board meetings for

123 which the applicant's application has been placed on the agenda. Relief may be given

124 from this requirement by the Board Chairperson.

125 16.8.7 Waivers

126 [Amended 9-26-2011 by Ord. No. 11-14]

127 A. Waiver authorization.

128 Where the Planning Board finds, due to special circumstances of a particular plan,

129 certain required improvements do not promote the interest of public health, safety

130 and general welfare, or are inappropriate because of inadequacy or lack of

131 connecting facilities adjacent or in proximity to the proposed development, upon

132 written request, it may waive or modify such requirements, subject to appropriate

133 conditions as determined by the Planning Board.

134 B. Objectives secured.

135 In granting modifications or waivers from requirements in 16.5 General

136 Performance Standards or 16.8.10 Performance Standards and Approval Criteria,

137 below, the Planning Board must require such conditions as will, in its judgment,

138 secure substantially the objectives of the requirements so waived or modified.

- 139 (1). Any waivers granted must improve the ability of the project to take the
- 140 property's pre-development natural features into consideration. Natural
- 141 features include but are not limited to topography, location of water
- 142 bodies, location of unique or valuable natural resources, and relation to
- 143 abutting properties or land uses.

144 16.8.8 Other Requirements

145 A. Burden of proof.

146 In all instances, the burden of proof is upon the applicant proposing the

147 development.

148 B. Comprehensive Plan.

149 Any proposed development or use must be in harmony with the Town
150 Comprehensive Plan guidance adopted into the provisions of this title.

151 C. Site inspection.

152 (1). So the Planning Board may be fully informed about the site and in a
153 knowledgeable position to prescribe contour intervals to be employed on
154 topographic maps and grading plans for the development, the applicant
155 must arrange a joint inspection of the site with the Planning Board.

156 D. Safe use.

157 (1). The land/water area to be developed must be of such character that it can
158 be used without danger to health or peril from fire, flood, soil failure or
159 other hazard.

160 16.8.9 Review Process and Submission Requirements

161 A. Preapplication and Conference

162 (1). Process. The purpose of this meeting is to familiarize the applicant with
163 the review procedures and submission requirements, and approval criteria,
164 and to familiarize the Planner with the nature of the project.

165 a. This meeting is optional for Minor Subdivisions, but required for
166 Major Subdivisions.

167 a. Such review shall not cause the plan to be a pending application or
168 proceeding under 1M.R.S.A. §302. No decisions relative to the
169 plan may be made at this meeting.

170 b. To request a preapplication conference the applicant shall submit,
171 at a brief narrative describing the project, the location of the
172 project on a US Geologic Survey (USGS) topographic map, and a
173 copy of the Tax Map showing the development parcel.

174 B. Sketch Plan Review

175 (1). Review application form.
176 Any person requiring subdivision review must submit an application on
177 forms prescribed by the Planning Board, together with a development plan
178 and such submission contents as may be required in §16.8.9.B.3 and
179 §16.8.9.B.4. A complete application consists of all the required elements.
180 No more than one application/plan for a piece of property may be under
181 review before the Planning Board. No more than one approved final plan
182 for a piece of property may exist.

183 (2). Planning Board review and decision. The Planning Board must, within 30
184 days of sketch plan submission, act upon the sketch plan as follows:

185 a. The Planning Board must determine whether the sketch plan
186 proposal complies with the standards contained herein and must,
187 where it deems necessary, make specific suggestions in writing to
188 be incorporated by the applicant in subsequent submissions.

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- b. If the concept is approved, inform subdivision applicants in writing of the contour interval which will be required for the plans; classify the sketch plan into one of two categories defined herein, as a minor subdivision or a major subdivision, and authorize submission of the next application stage. The next application stage for a Minor Subdivision is a Final Plan application and the next application stage for a Major Subdivision is a Preliminary Plan application.
 - c. Any plan may be continued for a total period not to exceed 90 calendar days for good and sufficient reason (i.e., for revisions to be made, studies completed, or additional information submitted) and acceptable to both the applicant and the Planning Board. Such plan is automatically scheduled for the agenda of the next regular Planning Board meeting after the 90th day and action completed in accordance with the requirements and timing contained in this title, whether the applicant has accomplished the purposes for which continued or not.
 - d. The action to table by the Planning Board must be an action to temporarily suspend action and not to suppress a vote on the plan.

208 (3). Plan Requirements

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- a. The sketch plan must show in simple form on a topographic map the proposed site, subdivision, landscape architectural or architectural design concept, including streets, lots, structures and other features, in relation to existing conditions and municipal land use zone(s) regulations.
 - b. The sketch may be a freehand penciled sketch and must include the data listed below.

216 (4). Written Submission Requirements

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- a. General subdivision information must describe or outline the existing conditions of the site, including:
 - i. Covenants.
 - ii. High-intensity Class "A" soil survey and soil interpretation sheets.
 - iii. Available community facilities.
 - iv. Utilities.
 - b. Proposed development, such as:
 - i. Number of residential or business lots and/or dwelling units;
 - ii. Typical lot width and depth;
 - iii. Price range;
 - iv. Business areas;
 - v. Playgrounds, park areas and other public areas;
 - vi. Protective covenants;

- 232 vii. Utilities; and
- 233 viii. Street improvements.

234 C. Preliminary Plan Review

- 235 (1). Applicability. Preliminary Plan Review only applies to Major Subdivision
- 236 applications.
- 237 (2). General Process
 - 238 a. Preliminary plan application filing and completeness review. A
 - 239 determination as to whether the Town Planner validates an
 - 240 application is based on a review of the application in accordance
 - 241 with the submission contents checklist filed with the plan, which
 - 242 indicates all elements required under §16.8.9.C.6 and §16.8.9.C.7
 - 243 have been received, or written request for waiver of submittal for
 - 244 any nonreceived items is included. The application must be
 - 245 accompanied by a plan and the required fee, together with a
 - 246 certification the applicant has notified abutters by mail of the filing
 - 247 of the plan application for approval.
 - 248 b. Receipt and scheduling review. Upon validation, the Town Planner
 - 249 must place the application on the Planning Board's agenda for
 - 250 Planning Board completeness review and acceptance and, upon
 - 251 Planning Board acceptance, issue a dated receipt to the applicant,
 - 252 which is thereafter the official time of submission. [Amended 9-
 - 253 26-2011 by Ord. No. 11-15]
 - 254 c. Site inspection. In the course of the review of the plan, the Planner
 - 255 must, and the Planning Board may at its discretion, make a
 - 256 physical inspection and may make photographic record of the
 - 257 existing conditions on the site. [Amended 9-26-2011 by Ord. No.
 - 258 11-15; 1-23-2012 by Ord. No. 12-01]
 - 259 d. Advisory opinions. At any time during review, the Planner may
 - 260 request an advisory opinion from the Planning Board,
 - 261 Conservation Commission or Port Authority on issues related to
 - 262 the application. Where applications are for land within wetland
 - 263 setbacks or the Resource Protection Overlay Zone, the
 - 264 Conservation Commission must be invited to review and offer
 - 265 recommendations from an environmental protection perspective.
 - 266 The Planner also must make recommendation on the necessity for
 - 267 independent review.
 - 268 e. Planner analysis. The Planner must analyze the application and
 - 269 forward comments to the applicant and the Planning Board with a
 - 270 recommendation as to review category (e.g., minor/major
 - 271 subdivision).
 - 272 f. A completed application must be submitted to the Town Planner
 - 273 no later than 21 days prior to the meeting date for the item to be
 - 274 included on the agenda. The submission must include on the plan
 - 275 or attached thereto, the following items, unless upon the applicant's

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written request, the Planning Board, by formal action, waives or defers any requirement(s) for submission.

- i. Refer to current Planning Department application checklist for required number of paper copies.
- ii. One electronic submission in PDF format of the complete submission including all forms, plans and documentation.
- g. Submission contents complete. Upon determination by the Planner that the preliminary plan application is complete, the Planner must receive it, together with an application fee in the amount set by the Town Council. (See Appendix A, Fee Schedules.) No application may be deemed complete by the Planning Board until payment of the proper fees.
 - i. Once the Planning Board makes a finding that the preliminary plan is complete in regard to the submission requirements, it must determine if any studies/review or analysis is required in accordance with §16.8.9.C.7.1 and §16.8.9.C.8 and schedule the date for a public hearing.

(3). Public hearing

a. Scheduling

- i. In the case of an accepted subdivision plan application, such public hearing must be scheduled no later than 30 days from the date of Planning Board acceptance. With the concurrence of the applicant, this deadline may be modified.
- ii. For all other development plan applications (i.e., right-of-way plan application and development in the Shoreland Overlay Zone), at the Planning Board’s discretion, a public hearing may or may not be held.

b. Public notice.

- i. The Town Planner must place a public notice of such public hearing in a newspaper of general circulation in the Town at least seven and not more than 14 days prior to the scheduled hearing date; said notice must also be posted in at least three prominent public locations in Town at least 10 days prior to the hearing; and, in the case of a plan located within 500 feet of the Towns of Eliot or York, Maine, must be forwarded to the Southern Maine Regional Planning Commission and to the Town Clerk of Eliot or York, Maine, at least 10 days prior to the hearing.
- ii. A subdivision public notice must be published at least two times in a newspaper of general circulation in the Town. The date of the first notice must be at least seven days before the scheduled public hearing date.

c. Abutter notice.

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- i. The Town Planner must cause written notice of the public hearing to be sent by postage paid, first-class mail (cost to be paid by the applicant) to all owners of abutting property, as herein defined (within 150 feet of the property), and by regular mail to the Code Enforcement Officer, the Commissioner of Public Works, and where applicable, the Port Authority or Conservation Commission, at least seven days prior to the scheduled date. Failure of the parties to receive said notice does not invalidate any Board action.
 - ii. As used herein, relates solely to the notification of property owners who must be notified in writing when new development or redevelopment is proposed within 150 feet of their property boundary(ies). This notification must include intertidal land below the normal high-water line, but not that land beyond 100 rods (1,650 feet) distant from the normal high water line, or that land below the normal low-water line. Where question exists regarding ownership of intertidal lands, consult Figure 1 in 16.5.2, entitled, "Formula for Determining Ownership of Intertidal Land as a Guide for Identifying Abutters," attached to this chapter.
- d. Preliminary Plan Public Hearing Procedure
- i. The Planning Board may receive oral and documentary evidence, but must exclude evidence which it considers irrelevant, immaterial or unduly repetitious.
 - ii. The Chairperson of the Planning Board must determine the order of presentation by parties to the hearing. Each party must have the right to proceed without interruption, except that rulings by the Chairperson prevail. The applicant's presentation must proceed in accordance with the checklist provided.
 - iii. Any party may be represented by agent or attorney.
 - iv. The Town Planner, in consultation with the Code Enforcement Officer, Commissioner of Public Works, and such other Town officials as may have an interest in the application, must present into evidence a written summary of findings and recommendations.
 - v. The Planning Board may continue the hearing to another time and location, including the site of the development, as it deems necessary.
- (4). Planning Board Preliminary Plan review schedule.
- a. Within six months after approval/classification of a sketch plan by the Board, the applicant must submit an application for approval of a subdivision Preliminary Plan in the form prescribed herein.
 - b. Within 30 days after acceptance by the Planning Board of a

- 364 subdivision plan, the Planning Board must approve the plan,
365 approve the plan with conditions, disapprove the plan, postpone
366 action on the plan, or continue the review to another time/location.
- 367 c. Continuation or tabling of a review beyond the thirty-day period
368 for subdivision applications must be for good and sufficient reason
369 and be acceptable to both the applicant and the Planning Board.
- 370 d. Any plan may be continued for a total period not to exceed 90
371 calendar days for good and sufficient reason (i.e., for revisions to
372 be made, studies completed or additional information submitted)
373 and acceptable to both the applicant and the Planning Board. Such
374 plan is automatically scheduled for the agenda of the next regular
375 Planning Board meeting after the 90th day and action completed in
376 accordance with the requirements and timing contained in this title,
377 whether the applicant has accomplished the purposes for which
378 continued or not.
- 379 e. The action to table by the Planning Board must be an action to
380 temporarily suspend action and not to suppress a vote on the plan.
- 381 f. Failure of the Planning Board to act within the thirty-day period
382 for an accepted subdivision application constitutes disapproval of
383 the plan, in which case the applicant may resubmit the plan without
384 payment of an additional application fee.
- 385 a. Planning Board review and decision. The Planning Board must
386 approve, approve with conditions or deny the preliminary plan.
- 387 a. Approval of a preliminary plan does not constitute approval of a
388 final plan, but rather it is be deemed an expression of approval of
389 the design submitted on the preliminary plan as a guide to the
390 preparation of the final plan.
- 391 b. Conditions of the Planning Board's approval may include, but are
392 not limited to, type of vegetation, increased setbacks and yard
393 space, specifications for sewage and water supply facilities, buffers
394 and screens, period of maintenance sureties, deed restrictions,
395 locations of piers, docks, parking or signs, type or style of
396 construction, and the amount of all guarantees which may be
397 required.
- 398 c. Conditions required by the Planning Board at the preliminary plan
399 review phase must have been met before the final plan may be
400 given final approval unless specifically waived, upon written
401 request by the applicant, by formal Planning Board action, wherein
402 the character and extent of such waivers which may have been
403 requested are such that they may be waived without jeopardy to the
404 public health, safety and general welfare.
- 405 d. The decision of the Planning Board plus any conditions imposed
406 must be noted on three copies of the preliminary plan. One copy
407 must be returned to the applicant, one retained by the Planning
408 Board and one forwarded to the municipal officials.

409 e. If the final plan is not submitted to the Planning Board within six
410 months after classification of the sketch plan, the Planning Board
411 may refuse to act on the subdivision preliminary plan and require
412 resubmission of the sketch plan. All such plans resubmitted must
413 comply with all normal application requirements.

414 (5). Plan Requirements, Preliminary Plan

415 a. Plan sheets drawn on a reproducible medium and must measure no
416 less than 11 inches by 17 inches and no larger than 24 inches by 36
417 inches;

418 b. With scale of the drawings no greater than one inch equals 30 feet
419 for developments less than 10 acres, and one inch equals 50 feet
420 for all others;

421 c. Code block in the lower right-hand corner. The block must
422 contain:

423 i. Name(s) and address(es) of the applicant and owner;

424 ii. Name of the project;

425 iii. Name and address of the preparer of the plan, with
426 professional seal, if applicable;

427 iv. Date of plan preparation/revision, and a unique ID number
428 for the plan and any revisions;

429 d. Standard boundary survey conducted by a surveyor licensed in the
430 State of Maine, in the manner recommended by the State Board of
431 Registration for Land Surveyors;

432 e. An arrow showing true North and the magnetic declination, a
433 graphic scale, and signature blocks for the owner(s) and members
434 of the Planning Board;

435 f. Locus map showing the property in relation to surrounding roads,
436 within 2,000 feet of any property line of the development;

437 g. Vicinity map and aerial photograph showing the property in
438 relation to surrounding properties, roads, geographic, natural
439 resource (wetland, etc.), historic sites, applicable comprehensive
440 plan features such as proposed park locations, land uses, zones,
441 and other features within 500 feet from any boundary of the
442 proposed development;

443 h. Surveyed acreage of the total parcel, of rights-of-way, wetlands,
444 and area to be disturbed and amount of street frontage;

445 i. Names and addresses of all owners of record of property abutting
446 the development, including those across a street;

447 j. Existing Development Area Conditions, including but not limited
448 to:

449 i. Location and description of all structures, including signs,
450 existing on the site, together with accesses located within
451 100 feet of the property line;

- 452 ii. Essential physical features such as watercourses, wetlands,
453 floodplains, wildlife habitat areas, forest cover, and
454 outcroppings;
- 455 b. Utilities existing, including power, water, sewer, holding tanks,
456 bridges, culverts and drainageways. Proposed development area
457 conditions including, but not limited to:
- 458 i. Structures; their location and description including signs, to
459 be placed on the site, floor plan of exterior walls and
460 accesses located within 100 feet of the property line;
- 461 ii. Utilities proposed including power, water, sewer, holding
462 tanks, bridges, culverts and drainageways;
- 463 iii. Sewage facilities type and placement. Test pit locations, at
464 least two of which must meet the State of Maine Plumbing
465 Code requirements, must be shown;
- 466 iv. Domestic water source;
- 467 v. Parks, open space, or conservation easement locations;
- 468 vi. Lot lines, interior and exterior, right-of-way, and street
469 alignments;
- 470 vii. Road and other paved ways plans, profiles and typical
471 sections including all relevant data;
- 472 viii. Setbacks existing and proposed;
- 473 ix. Machinery permanently installed locations likely to cause
474 appreciable noise at the lot lines;
- 475 x. Raw, finished or waste materials to be stored outside the
476 buildings, and any stored material of a toxic or hazardous
477 nature;
- 478 xi. Topographic contours of existing contours and finished
479 grade elevations within the development;
- 480 xii. Pedestrian ways/sidewalks, curbs, driveways, fences,
481 retaining walls and other artificial features locations and
482 dimensions proposed;
- 483 xiii. Temporary marker locations adequate to enable the
484 Planning Board to readily locate and appraise the layout of
485 the development;
- 486 xiv. Land proposed to be dedicated to public use and the
487 conditions of such dedication;
- 488 xv. Natural features or site elements to be preserved.
- 489 (6). Written Submission Requirements, Preliminary Plan
- 490 a. Legal interest documents showing legal interest of the applicant in
491 the property to be developed. Such documents must contain the
492 description upon which the survey was based;
- 493 b. Property encumbrances currently affecting the property, as well as

- 494 any proposed encumbrances;
- 495 c. Water District approval letter, if public water is used, indicating
- 496 there is adequate supply and pressure to be provided to the
- 497 development;
- 498 d. Erosion and sedimentation control plan endorsed by the York
- 499 County Soil and Water Conservation District or the Town's
- 500 engineering consultant;
- 501 e. Stormwater management preliminary plan for stormwater and
- 502 other surface water drainage prepared by a registered professional
- 503 engineer including the general location of stormwater and other
- 504 surface water drainage areas;
- 505 f. Soil survey for York County covering the development. Where the
- 506 soil survey shows soils with severe restrictions for development, a
- 507 high intensity Class "A" soil survey must be provided;
- 508 g. Vehicular traffic report estimating the amount and type of
- 509 vehicular traffic that will be generated by the development on a
- 510 daily basis and for peak hours;
- 511 h. Traffic impact analysis in accordance with § 16.8.9.C.8.a for
- 512 developments involving 40 or more parking spaces or which are
- 513 projected to generate more than 400 vehicle trips per day;
- 514 i. Test pit(s) analysis prepared by a licensed site evaluator when
- 515 sewage disposal is to be accomplished by subsurface disposal, pits,
- 516 prepared by a licensed site evaluator;
- 517 j. Town Sewage Department or community system authority letter,
- 518 when sewage disposal is to be through a public or community
- 519 system, approving the connection and its location;
- 520 k. Letters of evaluation of the development by the Chief of Police,
- 521 Fire Chief, Commissioner of Public Works, and, for residential
- 522 applications, the superintendent of schools, must be collected and
- 523 provided by the Town Planner.
- 524 l. Additional submissions as may be required by other sections of
- 525 this title such as for clustered development, mobile home parks, or
- 526 junkyards must be provided.
- 527 (7). Additional requirements. In its consideration of an application/plan, the
- 528 Planning Board may at any point in the review require the applicant to
- 529 submit additional materials, studies, analyses, and agreement proposals as
- 530 it may deem necessary for complete understanding of the application.
- 531 Such materials may include:
- 532 a. Traffic impact analysis, including the following data:
- 533 i. An executive summary outlining the study findings and
- 534 recommendations.
- 535 ii. A physical description of the project site and study area
- 536 encompassed by the report with a diagram of the site and

- 537 its relationship to existing and proposed development sites
538 within the study area.
- 539 iii. A complete description of the proposed uses for the project
540 site (in cases where specific uses have not been identified,
541 the highest traffic generators within the category best fitting
542 the proposed development must be used to estimate traffic
543 generators).
- 544 iv. Existing land uses and zone(s) in the vicinity of the site
545 must be described. Any proposals for the development of
546 vacant parcels or redevelopment of parcels within the study
547 area of which the municipality makes the applicant aware,
548 must be included in the description.
- 549 v. Street geometry and existing traffic control devices on all
550 major streets and intersections affected by the anticipated
551 traffic generated.
- 552 vi. Trip generation must be calculated for the proposed project
553 and other proposed new projects and redevelopment
554 projects within the study area using the most recent data
555 available from the Institute of Transportation Engineers'
556 (ITE) Trip Generation Guide, and/or actual field data
557 collected from a comparable trip generator (i.e.,
558 comparable in size, location and setting). This data will be
559 presented in a summary table such that assumptions on trip
560 generation and rates arrived at by the engineer are fully
561 understandable to the Planning Board.
- 562 vii. The anticipated trip distribution of vehicles entering and
563 exiting the proposed site during the appropriate peak
564 hour(s) must be described and diagrammed.
- 565 viii. Trip assignment, the anticipated utilization of study
566 area streets by traffic generated by the proposed project,
567 must be described and diagrammed.
- 568 ix. Existing traffic conditions in the study area will be
569 identified and analyzed based upon actual field counts
570 and/or recent available machine counts.
- 571 x. Existing traffic conditions in the study area will be
572 described and diagrammed, specifically AADT, appropriate
573 peak design hour(s), traffic volumes, street and intersection
574 capacities, and levels of service.
- 575 xi. Existing safety conditions must be evaluated based upon
576 the traffic accident data available for the most current three
577 years and described including link and node critical rate
578 factors (CRF).
- 579 xii. Future traffic conditions on the street system will be
580 estimated based on existing volumes, projected traffic

581 growth in the general study area, projected traffic from
582 approved development, and traffic generated by the
583 proposed project, specifically AADT traffic, appropriate
584 peak hour(s) traffic volumes, street and intersection
585 capacity, street and intersection levels of service will be
586 analyzed. When other projects are being proposed within
587 the impact area of the project, the Planning Board may
588 require these projects to be incorporated into the analysis.

589 xiii. When the analysis of the proposed project's impact
590 on traffic indicates unsatisfactory CRF, levels of service or
591 operating capacity on study area streets and intersections, a
592 description of proposed improvements to remedy identified
593 deficiencies must be included.

594 xiv. The base data collected and analyzed during the
595 course of the traffic impact study.

596 xv. If a development that requires a traffic impact study is
597 within 500 feet of York or Eliot, Maine, or if the study
598 identifies impacts on segments of Route 1 or Route 236 or
599 on their intersections located in York or Eliot, Maine, the
600 applicant must provide evidence that a copy of the impact
601 study has been given to the impacted municipality's chief
602 administrative officer;

603 b. Environmental analysis. An analysis of the effects that the
604 development may have upon surrounding lands and resources,
605 including intensive study of groundwater, ecosystems, or pollution
606 control systems;

607 D. Final Plan Review

608 (1). Process

609 a. Final plan application. The applicant must, within six months after
610 approval of a preliminary plan, file with the Planning Board an
611 application for approval of the final plan in the form prescribed
612 herein.

613 b. Failure to submit final plan application. If the final plan is not
614 submitted to the Planning Board within six months after the
615 approval of the preliminary plan, the Planning Board may refuse to
616 act on the final plan and require resubmission of the preliminary
617 plan. Any plan resubmitted must comply with all application
618 requirements, including payment of fees.

619 c. Within 30 days after acceptance by the Planning Board of a Final
620 Subdivision plan, the Planning Board must approve the plan,
621 approve the plan with conditions, disapprove the plan, postpone
622 action on the plan, or continue the review to another time/location.

623 d. Continuation or tabling of a review beyond the thirty-day period
624 for subdivision applications must be for good and sufficient reason

- 625 and be acceptable to both the applicant and the Planning Board.
- 626 e. Any plan may be continued for a total period not to exceed 90
- 627 calendar days for good and sufficient reason (i.e., for revisions to
- 628 be made, studies completed or additional information submitted)
- 629 and acceptable to both the applicant and the Planning Board. Such
- 630 plan is automatically scheduled for the agenda of the next regular
- 631 Planning Board meeting after the 90th day and action completed in
- 632 accordance with the requirements and timing contained in this title,
- 633 whether the applicant has accomplished the purposes for which
- 634 continued or not.
- 635 f. The action to table by the Planning Board must be an action to
- 636 temporarily suspend action and not to suppress a vote on the plan.
- 637 g. Failure of the Planning Board to act within the thirty-day period
- 638 for an accepted subdivision application, and the thirty-five-day
- 639 period for other Planning Board accepted applications, constitutes
- 640 disapproval of the plan, in which case the applicant may resubmit
- 641 the plan without payment of an additional application fee.
- 642 h. Application/plan review expiration.
- 643 i. Uncounted time. When an approved plan is required to be
- 644 reviewed/approved by another agency (e.g., DEP, BOA,
- 645 KPA), any period the plan is at such an agency or that a
- 646 plan is continued by the Planning Board in accordance with
- 647 this section from time of submission to time of decision
- 648 inclusive, verifiable by recorded documentation, is not
- 649 counted as part of the cumulative time periods described in
- 650 this section.
- 651 ii. Requests for extension. The Planning Board may grant
- 652 extensions to expiration dates upon written request by the
- 653 developer, on a case-by-case basis.
- 654 i. A completed application must be submitted to the Town Planner
- 655 no later than 21 days prior to the meeting date for the item to be
- 656 included on the agenda. The submission must include on the plan
- 657 or attached thereto, the following items, unless upon the applicant's
- 658 written request, the Planning Board, by formal action, waives or
- 659 defers any requirement(s) for submission.
- 660 i. Refer to current Planning Department application checklist
- 661 for required number of paper copies.
- 662 ii. One electronic submission in PDF format of the complete
- 663 submission including all forms, plans and documentation.

664 (2). Final Plan Requirements

665 A complete final plan application must fulfill all the requirements of a

666 preliminary plan as indicated in § 16.8.C.6-8 and must show the following

667 items, unless the Planning Board, by formal action, upon the applicant's

668 written request, waives or defers any requirement(s) for submission. If no

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changes occurred to the preliminary plan, it also may be considered to be the final plan.

- a. Preliminary plan information, including vicinity map and any amendments thereto suggested or required by the Planning Board or other required reviewing agency.
- b. Street names and lines, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public use.
- c. Street length of all straight lines, the deflection angles, radii, lengths of curves and central angles of all curves, tangent distances and tangent bearings.
- d. Lots and blocks within a subdivision, numbered in accordance with local practice.
- e. Markers/permanent reference monuments: Their location, source references and, where required, constructed in accordance with specifications herein.
- f. Structures: their location and description, including signs, to be placed on the site, floor plans and elevations of principal structures as well as detail of all structures, showing building materials and colors, and accesses located within 100 feet of the property line.
- g. Outdoor lighting and signage plan if the application involves the construction of more than 5,000 square feet of nonresidential floor area; or the creation of more than 20,000 square feet of impervious area; or the creation of three or more dwelling units in a building — prepared by a qualified lighting professional, showing at least the following at the same scale as the site plan:
 - i. All buildings, parking areas, driveways, service areas, pedestrian areas, landscaping and proposed exterior lighting fixtures;
 - ii. All proposed lighting fixture specifications and illustrations, including photometric data, designation as "cutoff" fixtures, color rendering index (CRI) of all lamps (bulbs), and other descriptive information on the fixtures;
 - iii. Mounting height of all exterior lighting fixtures;
 - iv. Lighting analyses and luminance level diagrams or photometric point-by-point diagrams on a twenty-foot grid, showing that the proposed installation conforms to the lighting level standards of the ordinance codified in this section together with statistical summaries documenting the average luminance, maximum luminance, minimum luminance, average-to-minimum uniformity ratio, and maximum-to-minimum uniformity ratio for each parking area, drive, canopy and sales or storage area;
 - v. Drawings of all relevant building elevations, showing the fixtures, the portions of the walls to be illuminated, the

- 713 luminance levels of the walls, and the aiming points for any
714 remote light fixtures; and
- 715 vi. A narrative that describes the hierarchy of site lighting and
716 how the lighting will be used to provides safety, security
717 and aesthetic effects.
- 718 h. Machinery in permanently installed locations likely to cause
719 appreciable noise at the lot lines.
- 720 i. Materials (raw, finished or waste) storage areas, their types and
721 location, and any stored toxic or hazardous materials, their types
722 and locations.
- 723 j. Fences, retaining walls and other artificial features locations and
724 dimensions proposed.
- 725 k. Landscaping plan, including location, size and type of plant
726 material.
- 727 l. Stormwater management plan for stormwater and other surface
728 water drainage prepared by a registered professional engineer,
729 including the location of stormwater and other surface water
730 drainage area; a post-construction stormwater management plan
731 that defines maintenance responsibilities, responsible parties,
732 shared costs, and schedule for maintenance; a draft maintenance
733 agreement for stormwater management facilities; and, where
734 applicable, draft documents creating a homeowners' association
735 referencing the maintenance responsibilities. Where applicable, the
736 maintenance agreement must be included in the document of
737 covenants, homeowners' documents and/or as riders to the
738 individual deed and recorded with the York County Registry of
739 Deeds. [Added 9-26-2011 by Ord. No. 11-15;7-25-2016 by Ord.
740 No. 16-06]
- 741 m. Phasing plan. Upon applicant's request, the Planning Board may
742 permit phasing of the plans, where it can be demonstrated to the
743 Planning Board's satisfaction that such phasing would result in a
744 safe and orderly development of the plan.
- 745 i. The applicant may file a section of the approved plan with
746 the municipal officials and the York County Registry of
747 Deeds if said section constitutes at least 25% of the total
748 number of lots, or for plans including buildings, 25% of the
749 gross area, contained in the approved plan. In all
750 circumstances, plan approval of the remaining sections of
751 the plan will remain in effect for three years unless the
752 applicant requests and the Planning Board grants
753 extensions of time equivalent to the requirements for
754 approved plans in § 16.10.9.1E.
- 755 ii. Phasing is subject to any conditions deemed necessary to
756 assure a reasonable mixture of uses is completed within
757 each separate phase of the plan.

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- iii. Where projects are to be constructed in phases, phasing of stormwater management, water mains and streets are part of the review process.
 - iv. Portions of both the developed and undeveloped site impacted by interim infrastructure conditions such as unlooped water systems, stormwater runoff from unfinished areas onto finished areas and vice versa, dead-end streets, etc., must be clearly defined and shown on the plans.
 - v. The Planning Board may permit construction of phases out of order only when the storm drainage plan and the water plan, etc., have been reviewed, and it has been demonstrated that the impact on both the developed and undeveloped sections is negligible.

772 (3). Written Submission Requirements

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- a. Open space land cession offers. Written offers of cession to the municipality of all public open space shown on the plan, and copies of agreements or other documents showing the manner in which space(s), title to which is reserved by the subdivider, are to be maintained.
 - b. Open space land cession offers acknowledgement by Town. Written evidence that the municipal officers are satisfied with the legal sufficiency of the documents referred to in § 16.8.D.3.a. Such written evidence does not constitute an acceptance by the municipality of any public open space referred to in § 16.8.D.3.a.
 - c. Performance guaranty and Town acceptance to secure completion of all improvements required by the Planning Board, and written evidence the Town Manager is satisfied with the sufficiency of such guaranty.
 - i. Where improvements for the common use of lessees or the general public have been approved, the Planning Board must require a performance guaranty of amount sufficient to pay for said improvements as a part of the agreement.
 - ii. Process. Prior to the issue of a building permit, the applicant must, in an amount and form acceptable to the Town Manager, file with the Municipal Treasurer an instrument to cover the full cost of the required improvements. A period of one year (or such other period as the Planning Board may determine appropriate, not to exceed three years) is the guaranty time within which required improvements must be completed. The performance guaranty must include an amount required for recreation land or improvements, as specified.
 - d. Maintenance plan and agreement defining maintenance responsibilities, responsible parties, shared costs and schedule.

803 Where applicable, a maintenance agreement must be included in
804 the document of covenants, homeowners' documents and/or as
805 riders to the individual deed.

806 (4). Findings of Fact.

- 807 a. After considering all submissions, evidence and testimony in
808 accordance with the requirements of all applicable state and the
809 Town Code, the Planning Board must make a finding of facts for
810 each and every proposed phase of development, including the
811 development master plan and each subsequent development plan,
812 and take formal action as required in this title.
- 813 b. Findings of fact. Action by the Planning Board must be based upon
814 findings of fact which certify or waive compliance with all the
815 required standards of this title and which certify the development
816 meets the following requirements:
- 817 i. Development conforms to local ordinances. The proposed
818 development conforms to a duly adopted Comprehensive
819 Plan as per adopted provisions in the Town Code, zoning
820 ordinance, subdivision regulation or ordinance,
821 development plan or land use plan, if any. In making this
822 determination, the municipal reviewing authority may
823 interpret these ordinances and plans.
 - 824 ii. Freshwater wetlands identified. All freshwater wetlands
825 within the project area have been identified on any maps
826 submitted as part of the application, regardless of the size
827 of these wetlands.
 - 828 iii. River, stream or brook identified. Any river, stream or
829 brook within or abutting the proposed project area has been
830 identified on any maps submitted as part of the application.
831 For purposes of this section, "river, stream or brook" has
832 the same meaning as in 38 M.R.S. § 480-B, subsection 9.
 - 833 iv. Water supply sufficient. The proposed development has
834 sufficient water available for the reasonably foreseeable
835 needs of the development.
 - 836 v. Municipal water supply available. The proposed
837 development will not cause an unreasonable burden on an
838 existing water supply, if one is to be used.
 - 839 vi. Sewage disposal adequate. The proposed development will
840 provide for adequate sewage waste disposal and will not
841 cause an unreasonable burden on municipal services, if
842 they are utilized.
 - 843 vii. Municipal solid waste disposal available. The proposed
844 development will not cause an unreasonable burden on the
845 municipality's ability to dispose of solid waste, if municipal
846 services are to be used.

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- viii. Water body quality and shoreline protected. Whenever situated entirely or partially within 250 feet of any wetland, the proposed development will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
 - ix. Groundwater protected. The proposed development will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.
 - x. Flood areas identified and development conditioned. All flood-prone areas within the project area have been identified on maps submitted as part of the application, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps and information presented by the applicant. If the proposed development, or any part of it, is in such an area, the applicant must determine the one-hundred-year flood elevation and flood hazard boundaries within the project area. The proposed plan must include a condition of plan approval requiring that principal structures in the development will be constructed with their lowest floor, including the basement, at least one foot above the one-hundred-year flood elevation.
 - xi. Stormwater managed. The proposed development will provide for adequate stormwater management.
 - xii. Erosion controlled. The proposed development will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
 - xiii. Traffic managed. The proposed development will:
 - a. 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
 - b. Provide adequate traffic circulation, both on site and off site.
 - i. Water and air pollution minimized. The proposed development will not result in undue water or air pollution. In making this determination, the following must be considered:
 - a. Elevation of the land above sea level and its relation to the floodplains;
 - b. Nature of soils and subsoils and their ability to adequately support waste disposal;
 - c. Slope of the land and its effect on effluents;

- 891 d. Availability of streams for disposal of effluents;
892 e. Applicable state and local health and water resource
893 rules and regulations; and
894 f. Safe transportation, disposal and storage of
895 hazardous materials.
- 896 xiv. Aesthetic, cultural and natural values protected. The
897 proposed development will not have an undue adverse
898 effect on the scenic or natural beauty of the area, aesthetics,
899 historic sites, significant wildlife habitat identified by the
900 Department of Inland Fisheries and Wildlife or the
901 municipality, or rare and irreplaceable natural areas, or any
902 public rights for physical or visual access to the shoreline.
- 903 xv. Developer financially and technically capable. Developer is
904 financially and technically capable to meet the standards of
905 this section.
- 906 c. In Shoreland, Resource Protection or Commercial
907 Fisheries/Maritime Use Overlay Zones, the proposed use will:
- 908 i. Maintain safe and healthful conditions;
909 ii. Not result in water pollution, erosion or sedimentation to
910 surface waters;
911 iii. Adequately provide for the disposal of all wastewater;
912 iv. Not have an adverse impact on spawning grounds, fish,
913 aquatic life, bird or other wildlife habitat;
914 v. Conserve shore cover and visual, as well as actual, points
915 of access to inland and coastal waters;
916 vi. Protect archaeological and historic resources as designated
917 in the comprehensive plan;
918 vii. Not adversely affect existing commercial fishing or
919 maritime activities in a commercial fisheries/maritime
920 activities district;
921 viii. Avoid problems associated with floodplain
922 development and use; and
923 ix. Is in conformance with the provisions of this title.
- 924 d. For a right-of-way plan. The proposed right-of-way:
- 925 i. Does not create any nonconforming lots or buildings; and
926 ii. Could reasonably permit the right of passage for an
927 automobile.
- 928 e. For special exception use – special exception use permitted. If a
929 special exception use is requested, the special exception use will:
930 [Added 9-26-2011 by Ord. No. 11-15]
- 931 i. Not prevent the orderly and reasonable use of adjacent
932 properties or of properties in adjacent use zones;

- 933 ii. Not prevent the orderly and reasonable use of permitted or
- 934 legally established uses in the zone wherein the proposed
- 935 use is to be located, or of permitted or legally established
- 936 uses in adjacent use zones; and
- 937 iii. Not adversely affect the safety, the health, and the welfare
- 938 of the Town.
- 939 iv. Be in harmony with and promote the general purposes and
- 940 intent of this title.

941 (5). Final plan approval and recording.

- 942 a. Agreement form. An approval by the Planning Board must take the
- 943 form of an agreement between the Town and the applicant,
- 944 incorporating as elements the application, the Planning Board's
- 945 findings of fact, and such conditions as the Planning Board may
- 946 impose upon approval.
- 947 a. Agreement distribution. The Planning Board must send copies of
- 948 the agreement to the Town Manager and Code Enforcement
- 949 Officer. [Amended 9-26-2011 by Ord. No. 11-15]
- 950 b. Approved final plan signing. A plan has final approval only when
- 951 the Planning Board has indicated approval by formal action and the
- 952 plan has been properly signed by a majority of the Planning Board
- 953 members or by the Chair only, if so voted by the Planning Board.
- 954 c. Approved final plan recording. An approved plan involving the
- 955 division of land, easements, or property boundary modification
- 956 must be recorded by the York County Registry of Deeds. A Mylar
- 957 copy of the recorded plan must be returned to the Town Planner.
- 958 [Amended 9-26-2011 by Ord. No. 11-15]

959 16.8.10 Performance Standards and Approval Criteria

960 A. Monuments

961 (1). Stone monuments.

- 962 a. Stone monuments must be set at all street intersections and points
- 963 of curvature, but not more than 750 feet apart along street lines
- 964 without curves or intersections.
- 965 b. Stone monuments must be set at all corners and angle points of the
- 966 development boundaries where the interior angle of the boundaries
- 967 is less than 135° or greater than 225°.
- 968 c. Stone monuments must be a minimum of four inches square at the
- 969 top and four feet in length and set in the ground at final grade
- 970 level. Drilled holes, 1/2 inch deep, are to serve to locate the point
- 971 or points described above.

972 (2). Other monumentation.

973 All other development boundary corners and angle points, as well as all lot

974 boundary corners and angle points are to be marked by suitable

975 monumentation constructed of reasonably permanent material and solidly
976 embedded in the ground. All such monumentation must be capable of
977 being detected by commonly used magnetic or electronic equipment and
978 clearly show the registration number of the registered land surveyor
979 responsible for the survey.

980 (3). Impractical placement.

981 Where the placement of a required monument at its proper location is
982 impractical, it is permissible to set a reference monument close to that
983 point on an adjacent property line.

984 B. Basic Subdivision Layout

985 (1). Calculation of Density: See “Net Residential Acreage” in 16.5 General
986 Performance Standards.

987 (2). Wherever possible, side lot lines shall be perpendicular to the street.

988 (3). The subdivision of tracts into parcels with more than twice the required
989 minimum lot size shall be laid out in such a manner as either to provide
990 for or preclude future division. Deed restrictions or notes on the plan shall
991 either prohibit future divisions of the lots or specify that any future
992 division shall constitute a revision to the plan and shall require approval
993 from the Board, subject to the criteria of the subdivision statute, the
994 standards of these regulations and conditions placed on the original
995 approval.

996 (4). If a lot on one side of a public street fails to meet the minimum
997 requirements for lot size, it may not be combined with a lot on the other
998 side of the public street to meet the minimum lot size.

999 (5). Lot Numbering. Even numbers shall be assigned to lots on one side of the
1000 street, and odd numbers on the opposite side. Where the proposed
1001 subdivision contains the extension of an existing street or street approved
1002 by the Board, but not yet constructed, the lot numbers shall correspond
1003 with the existing lot numbers. The lot numbering shall be reviewed by the
1004 E-911 Addressing Officer and the comments shall be considered by the
1005 Board.

1006 C. Water Supply

1007 (1). The development shall be provided with a system of water supply that
1008 provides each use with an adequate supply of water.

1009 (2). If the project is to be served by a public water supply, the applicant shall
1010 secure and submit a written statement from the Kittery Water District that
1011 the proposed water supply system conforms with its design and
1012 construction standards, will not result in an undue burden on the source of
1013 distribution system, and will be installed in a manner adequate to provide
1014 needed domestic and fire protection flows.

1015 (3). Service required.

1016 a. A public water supply system with fire hydrants must be installed
1017 and approved in writing by the servicing water department.

1018 b. If in the opinion of the Board service to each lot by a public water

- 1019 system is not feasible, the Board may allow individual wells or a
1020 central water supply system approved in writing by a civil engineer
1021 registered in the State of Maine.
- 1022 c. If the developer proposes a central water supply system, it must
1023 also be approved in writing by the Maine Department of Human
1024 Services.
- 1025 d. Water supply system installations are at the expense of the
1026 developer.
- 1027 e. All required approvals of a water supply system must be secured
1028 before official submission of the final plan.
- 1029 (4). Quality and pressure.
1030 [Amended 9-26-2011 by Ord. No. 11-15]
1031 The developer must demonstrate by actual test or by a signed affidavit
1032 from an authorized representative of the servicing water company that
1033 water meeting the "Maine Rules Relating to Drinking Water (10-144
1034 C.M.R. 231)" can be supplied to the development at the rate of at least 350
1035 gallons per day per dwelling unit and at an adequate pressure for
1036 firefighting purposes.
- 1037 (5). Storage.
1038 Storage must be provided as necessary to meet peak domestic demands
1039 and fire protection needs.
- 1040 (6). Adequacy.
1041 The developer must demonstrate in the form of signed affidavits from the
1042 servicing water company or by engineering reports prepared by a civil
1043 engineer registered in the State of Maine that the proposed development
1044 will not result in an undue burden on the source, treatment facilities or
1045 distribution system involved or provide adequate assurance that such
1046 source, treatment facilities or distribution system will be modified to meet
1047 the expanded needs. The cost of such improvements is to be borne by the
1048 developer.
- 1049 (7). Water main size.
1050 The minimum water main size permitted is to be as required by the Kittery
1051 Water District, installed at the expense of the developer.
- 1052 (8). Design and installation.
1053 The water supply system must be designed and installed in accordance
1054 with requirements of the Maine Department of Human Services.
- 1055 (9). Dug wells.
1056 Because they are difficult to maintain in a sanitary condition, dug wells
1057 must be prohibited by deed restriction and a note on the plan, unless
1058 permitted by the Board only if it is not economically or technically
1059 feasible to develop other groundwater sources. Such dug wells permitted
1060 must be constructed so as to prevent infiltration of surface water into the
1061 well.
- 1062 (10). Central water supplies.

1063 If a central water supply system is provided by the developer, location and
1064 protection of the source, and design, construction and operation of the
1065 distribution system and appurtenances and treatment facilities must
1066 conform to the recommendations included in the "Manual for Evaluating
1067 Public Drinking Water Supplies, Public Health Service No. 1180 (1969)."

1068 (11). Hydrologic analysis.

1069 The Board may require the developer to provide a detailed hydrologic
1070 analysis in accordance with the requirements of § 16.8.10.M, Water
1071 Quality and Wastewater Pollution.

1072 D. Sewage Disposal

1073 [Amended 10-14-2015 by Ord. No. 15-10]

1074 (1). Sewers.

1075 a. As per Chapter 13.1, Sewer Service System, connection to public
1076 sewer is required, provided said sewer, located within an abutting
1077 public way, is within 100 feet of the property line as measured
1078 along the said public way. Individual dwellings and structures in
1079 approved and recorded developments where public sewer becomes
1080 available as described in this subsection must connect per the
1081 requirements of Title 13, Chapter 13.1.

1082 b. Notwithstanding the provision above and Chapter 13.1, connection
1083 to public sewer is required for a commercial or industrial
1084 development or a residential subdivision, where public sewer,
1085 within an abutting public way, is within 1,000 feet of the property
1086 line as measured along said public way. In such an event, the
1087 developer shall connect to public sewer per the Town's
1088 Superintendent of Sewer Services (SSS) specifications and in
1089 accordance with Title 13. The developer shall provide written
1090 certification to the Planning Board from the SSS that the proposed
1091 addition to public sewer is within the capacity of the collection and
1092 wastewater treatment system.

1093 c. Sewer mains, service lines and related improvements must be
1094 installed at the developer's expense. Service lines must extend to
1095 each lot's boundary line. Connections to public sewer must be
1096 installed in accordance with this article and Chapter 13.1, Sewer
1097 Service System, of the Kittery Town Code.

1098 d. Proposal and construction drawings must be approved in writing
1099 by the Town's SSS. All required approvals must be secured before
1100 the start of final plan review.

1101 e. When public sewer connection pursuant to Subsection B above is
1102 not feasible as determined by the Planning Board, the Board may
1103 allow individual or common subsurface wastewater disposal
1104 systems in accordance with § 16.8.10.D.(2), below. To determine
1105 feasibility, the developer shall submit information that considers
1106 the unique physical circumstances of the property and sewer

1107 connection alternatives to conventional construction/installation
1108 techniques, such as, but not limited to, horizontal/directional
1109 boring and low-pressure sewer. The developer's information must
1110 be accompanied by findings and recommendations of the Town
1111 Peer Review Engineer. In determining feasibility, the Board may
1112 not base its decision solely on additional costs associated with a
1113 sewer connection. The intent of this subsection is not to avoid the
1114 requirements of Chapter 13.1, Sewer Service System, of the
1115 Kittery Town Code.

1116 (2). Subsurface wastewater disposal systems.

1117 a. The developer shall submit plans for subsurface wastewater
1118 disposal designed by a Maine licensed site evaluator in full
1119 compliance with the requirements of the State of Maine Plumbing
1120 Code, Subsurface Wastewater Disposal Rules, and this title.
1121 Subsurface wastewater disposal systems (SWDS) must be
1122 constructed according to the approved plan.

1123 b. All first-time subsurface wastewater disposal systems must be
1124 installed in conformance with State of Maine Subsurface
1125 Wastewater Disposal Rules and this title. The following also apply:

1126 i. The minimum setback distance for a first-time subsurface
1127 disposal system may not be reduced by variance.

1128 ii. Clearing or removal of woody vegetation necessary to site
1129 a first-time system, and any associated fill extensions may
1130 not extend closer than is allowed in the table in § 16.5.28,
1131 Minimum Setbacks from Wetlands and Water Bodies, for
1132 subsurface sewage disposal.

1133 c. Replacement of subsurface wastewater disposal systems (SWDS)
1134 for existing legal uses:

1135 i. Where no expansion is proposed, the SWDS must comply
1136 with § 16.8.10.D.(2) and Table 16.5.28 to the extent
1137 practicable and otherwise are allowed per the Maine
1138 Subsurface Wastewater Disposal Rules; or

1139 ii. Where expansion is proposed, the SWDS must comply
1140 with § 16.8.10.D.(2) and Table 16.5.28 in addition to the
1141 Maine Subsurface Wastewater Disposal Rules.

1142 NOTE: For the purposes of this subsection, “expansion” is
1143 defined in Section 9 of the Maine Subsurface Wastewater
1144 Disposal Rules.

1145 d. Subsurface wastewater disposal systems on unimproved lots
1146 created after April 26, 1990. Where public sewer connection is not
1147 feasible, the developer must submit evidence of soil suitability for
1148 subsurface wastewater disposal systems, i.e., test pit data and other
1149 information as required by the State of Maine Subsurface
1150 Wastewater Disposal Rules and this title. In addition:

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- i. On lots with a limiting factor identified as being within 24 inches of the surface, a second site with suitable soils must be shown as a reserve area for future replacement should the primary site fail. Such reserve area is to be shown on the plan; not be built upon; and, must comply with all the setback requirements of the Subsurface Wastewater Disposal Rules and this title.
 - ii. In no instance may a primary or reserve disposal area be permitted on soils or on a lot requiring a first-time system variance request per the State of Maine Subsurface Wastewater Disposal Rules.
 - iii. Test pits must be of sufficient numbers (a minimum of two) and so located at representative points within each disposal area (primary and reserve sites) to ensure that the proposed disposal system can be located on soils and slopes that meet the criteria of the State of Maine Subsurface Wastewater Disposal Rules and the State Plumbing Code. All passing and failing test pits must be shown on the plan.
 - e. The developer shall install advanced pretreatment to subsurface wastewater disposal systems that are located inside or within 100 feet of areas that include a sand and gravel aquifer as indicated on the Maine Department of Agriculture, Conservation and Forestry (DACF) Geological Survey Maps or determined by Maine DACF staff.
- (3). Holding tanks.
- a. Holding tanks are not allowed for a first-time residential use.
- (4). (Reserved)
- (5). Sanitary facilities/restrooms.
- a. Any development containing a retail use or a food service use, or a combination thereof, exceeding 10,000 square feet must provide public toilet facilities in accordance with Subsections b., c. and d. of this section.
 - b. Public toilet facilities are to consist of at least one separate toilet for each sex; be clearly marked; maintained in a sanitary condition and in good repair. Lavatory facilities must be located within or immediately adjacent to all toilet rooms or vestibules. There may be no charge for their use.
 - c. Where a retail development exceeds 60,000 square feet, each toilet facility must contain a minimum of two water closets.
 - d. Requirements for handicapped accessibility to sanitary facilities are pursuant to applicable state standards.
- E. Stormwater and Surface Drainage
- (1). Adequate provision must be made for drainage of all stormwater generated with the development and any drained groundwater through a

- 1195 management system of natural and constructed features. Where possible,
1196 existing natural runoff control features, such as berms, swales, terraces
1197 and wooded areas must be retained to reduce runoff and encourage
1198 infiltration of storm waters. Otherwise drainage may be accomplished by a
1199 management system of constructed features such as swales, culverts,
1200 underdrains and storm drains.
- 1201 (2). To ensure proper functioning, stormwater runoff control systems must be
1202 maintained in good working order per § 16.8.10.F. Post-construction
1203 stormwater management.
- 1204 (3). Where a development is traversed by a stream, river or surface water
1205 drainageway, or where the Planning Board determines that surface runoff
1206 should be controlled, easements and or drainage rights-of-way must be
1207 provided which conform substantially to the lines of existing natural
1208 drainage paths. The minimum width of the drainage easements or rights-
1209 of-way is 30 feet.
- 1210 a. The minimum pipe size for any storm drainage pipe must be 12
1211 inches. Maximum trench width at the pipe crown must be the
1212 outside diameter of the pipe plus two feet. The pipe must be
1213 bedded in a fine granular material, containing no stones larger than
1214 three inches, lumps of clay, or organic matter, reaching a minimum
1215 of six inches below the bottom of the pipe extending to six inches
1216 above the top of the pipe.
- 1217 b. Except for normal thinning and landscaping, existing vegetation
1218 must be left intact to prevent soil erosion.
- 1219 (4). When proposed development does not require Maine Department of
1220 Environmental (MDEP) approval under MDEP Chapters 500 and 502, the
1221 following applies:
- 1222 a. All components of the stormwater management system must be
1223 designed to limit peak discharge to predevelopment levels for the
1224 two-year and twenty-five-year, twenty-four-hour duration,
1225 frequencies, based on the rainfall data for Portsmouth, NH. When
1226 the development discharges directly to a major water body, peak
1227 discharge may be increased from predevelopment levels, provided
1228 downstream drainage structures are suitably sized.
- 1229 b. The stormwater management system must be designed to
1230 accommodate upstream drainage, taking into account existing
1231 conditions and approved or planned developments not yet built and
1232 must include a surplus design capacity factor of 25% for potential
1233 increases in upstream runoff.
- 1234 c. Downstream drainage requirements must be studied to determine
1235 the effect of the proposed development. The storm drainage must
1236 not overload existing or future planned storm drainage systems
1237 downstream from the development. The developer is responsible
1238 for financing any improvements to existing drainage systems
1239 required to handle the increased storm flows.

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- i. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements must be provided to the Town allowing maintenance and improvement to the system.
 - ii. All sediment and erosion control measures must be designed in accordance with MDEP's "Maine Erosion and Sediment Control BMPs," March 2003.
 - iii. Catch basins in streets and roads must be installed where necessary and located at the curblin. In parking lots and other areas, catch basins must be located where necessary to ensure proper drainage.
 - iv. Where soils require a subsurface drainage system, the drains must be installed and maintained separately from the stormwater drainage system.
 - v. Where the Board has required a stormwater management and erosion control plan and MDEP approval under Chapters 500 and 502 is not required, said plan must be endorsed by the York County Soil and Water Conservation District.
 - vi. Drainage easements for existing or proposed drainageways located outside a public way must be maintained and/or improved in accordance with § 16.8.8.2, Post-construction stormwater management.

F. Post-construction stormwater management.

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- (1). Purposes. This section is enacted to provide for the health, safety and general welfare of the citizens of Kittery through monitoring and enforcement of compliance with post-construction stormwater management plans in order to comply with minimum control measures requirements of the federal Clean Water Act, of federal regulations and of Maine's Small Municipal Separate Storm Sewer Systems General Permit. This section seeks to ensure that post-construction stormwater management plan are followed and stormwater management facilities, including but not limited to any parking areas, catch basins, drainage swales, detention basins and ponds, pipes and related structures that are part of the storm drainage system, are properly maintained and pose no threat to public safety.
 - (2). Authority. The Maine Department of Environmental Protection, through its dissemination of the General Permit for the Discharge of Stormwater from Small Municipal Separate Storm Sewer Systems, has listed the Town of Kittery, Maine, as having a regulated small municipal separate storm sewer system ("small MS4"); under this general permit, listing as a regulated small MS4 requires enactment of this section as part of the Town's stormwater management program in order to satisfy the minimum control measures required by Part IV D 5 ("Post-construction stormwater management in new development and redevelopment").

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(3). Applicability.

- a. In general. This section applies to all new development or redevelopment (any construction activity on premises already improved that alters stormwater drainage patterns) including one acre or more of disturbed area, or activity with less than one acre of total land area that is part of a subdivision, if the subdivision will ultimately disturb an area equal to or greater than one acre. [Amended 7-25-2016 by Ord. No. 16-06]
- b. Exception. This section does not apply to new development or redevelopment on a lot, tract or parcel where that lot, tract or parcel is part of a subdivision that has received approval of its post-construction stormwater management plan and stormwater management facilities under the Town's subdivision or other zoning, planning or other land use ordinances; said lot, tract or parcel will not require additional review under this section but must comply with the post-construction stormwater management plan for that approved subdivision.
- c. Post-construction stormwater management plan approval.
 - i. General requirement. Notwithstanding any ordinance provision to the contrary, and except as provided in § 16.8.8.2C(2), Exception, no applicant for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for new development or redevelopment to which this section is applicable will receive such permit or approval for that new development or redevelopment unless the applicant also receives approval for its post-construction stormwater management plan and stormwater management facilities.
 - ii. Notice of BMP discharge to Town's MS4. At the time of application for a building permit, subdivision approval, site plan approval or other zoning, planning or other land use approval for new development or redevelopment to which this section is applicable, the applicant must notify the Town Planner if its post-construction stormwater management plan includes any BMP(s) that will discharge to the Town's MS4 and must include in this notification a listing of which BMP(s) will so discharge.
 - iii. Engineering and administrative fees. At the time of application, the applicant must pay an amount to the Town estimated to be sufficient to pay the engineering review costs and administrative costs incurred by the Town in review of the post-construction stormwater management plan. The Town will deduct from this amount the engineering and administrative costs incurred by the Town based upon the hours of engineering review time and

1330 prevailing hourly rate for reimbursement of the Town's
1331 administrative costs. Any remaining engineering and
1332 administrative review costs owed by the applicant must be
1333 paid in full by the applicant prior to the issuance of any
1334 temporary or permanent certificate of occupancy, and any
1335 unused balance remaining at that time will be refunded to
1336 the applicant.

1337 d. Post-construction stormwater management plan compliance.

1338 i. General requirements. Any person owning, operating,
1339 leasing or having control over stormwater management
1340 facilities required by a post-construction stormwater
1341 management plan approved under the Town's subdivision,
1342 site plan or other zoning, planning or other land use
1343 ordinances must demonstrate compliance with that plan as
1344 follows:

1345 a. That person or a qualified post-construction
1346 stormwater inspector hired by that person must, at
1347 least annually, inspect the stormwater management
1348 facilities in accordance with all municipal and state
1349 inspection, cleaning and maintenance requirements
1350 of the approved post-construction stormwater
1351 management plan;

1352 b. If the stormwater management facilities require
1353 maintenance to function as intended by the
1354 approved post-construction stormwater
1355 management plan, that person must take corrective
1356 action(s) to address the deficiency or deficiencies;
1357 and

1358 c. That person or a qualified post-construction
1359 stormwater inspector hired by that person must, on
1360 or by July 1 of each year, provide a completed and
1361 signed certification to the Code Enforcement
1362 Officer in a form provided by the Town, certifying
1363 that the person has inspected the stormwater
1364 management facilities and that they are adequately
1365 maintained and functioning as intended by the
1366 approved post-construction stormwater
1367 management plan or that they require maintenance
1368 or repair, describing any required maintenance and
1369 any deficiencies found during inspection of the
1370 stormwater management facilities, and if the
1371 stormwater management facilities require
1372 maintenance or repair of deficiencies in order to
1373 function as intended by the approved post-
1374 construction stormwater management plan, the

- 1375 person must provide a record of the required
1376 maintenance or deficiency and corrective action(s)
1377 taken.
- 1378 ii. Right of entry. In order to determine compliance with this
1379 section and with the post-construction stormwater
1380 management plan, the Code Enforcement Officer may enter
1381 upon property at reasonable hours with the consent of the
1382 owner, occupant or agent to inspect the stormwater
1383 management facilities.
- 1384 e. Annual report. Beginning July 1, 2009, and each year thereafter,
1385 the Town must include the following in its annual report to the
1386 Maine Department of Environmental Protection:
- 1387 i. Cumulative number of sites that have stormwater
1388 management facilities discharging into its MS4;
- 1389 ii. Summary of the number of sites that have stormwater
1390 management facilities discharging into its MS4 that were
1391 reported to the Town;
- 1392 iii. Number of sites with documented functioning stormwater
1393 management facilities; and
- 1394 iv. Number of sites that require routine maintenance in order
1395 to continue the original line and grade, the hydraulic
1396 capacity, and the original purpose of improvements; or
1397 remedial action to ensure that stormwater management
1398 facilities are functioning as intended.
- 1399 f. Enforcement. It is the duty of the Code Enforcement Officer to
1400 enforce the provisions of this section and take appropriate actions
1401 to seek the correction of violations. Enforcement of the post-
1402 construction stormwater management regulations are conducted in
1403 accordance with Chapter 16.4.
- 1404 (4). Storm drainage construction standards.
- 1405 a. Materials:
- 1406 i. Reinforced concrete pipe must meet the requirements of
1407 ASTM Designation C-76 (AASHTO M170). Pipe classes
1408 are required to meet the soil and traffic loads with a safety
1409 factor of 1.2 on the 0.01 inch crack strength with Class B
1410 bedding. Joints are to be of the rubber gasket type, meeting
1411 ASTM Designation C443-70, or of an approved performed
1412 plastic jointing material such as "Ramnek." Perforated
1413 concrete pipe must conform to the requirements of
1414 AASHTO M175 for the appropriate diameters.
- 1415 ii. Corrugated metal pipe must be bituminous-coated, meeting
1416 the requirements of AASHTO Designation M190 Type C
1417 for an iron or steel pipe or AASHTO Designation M196 for
1418 aluminum alloy pipe for sectional dimensions and type of

- 1419 bituminous coating. Pipe gauge is to be as required to meet
1420 the soil and traffic loads with a deflection of not more than
1421 5%.
- 1422 iii. SDR-35 plastic pipe installed in conformance with
1423 AASHTO bedding requirements.
- 1424 iv. Aluminized steel (AASHTO M274) and aluminum pipe
1425 (AASHTO M46).
- 1426 v. Catch basins are to be precast concrete truncated cone
1427 section construction, meeting the requirements of ASTM
1428 Designation C478, or precast concrete manhole block
1429 construction, meeting the requirements of ASTM C139,
1430 radial type. Castings are to be square cast iron sized for the
1431 particular inlet condition with the gratings perpendicular to
1432 the curbline. Bases may be cast-in-place 3,000 psi twenty-
1433 eight-day strength concrete or may be of precast concrete,
1434 placed on a compacted foundation of uniform density.
1435 Metal frames and traps must be set in a full mortar bed with
1436 tops and are to conform to the requirements of AASHTO
1437 M103 for carbon steel casings, AASHTO M105, Class 30
1438 for gray iron castings or AASHTO M183 (ASTM A283,
1439 Grade B or better) for structure steel.
- 1440 b. Drain inlet alignment is to be straight in both vertical and
1441 horizontal alignment unless specific approval for curvilinear drain
1442 is obtained in writing from the Commissioner of Public Works.
- 1443 c. Manholes are to be provided at all changes in vertical or horizontal
1444 alignment and at all junctions. On straight runs, manholes are to be
1445 placed at a maximum of three-hundred-foot intervals.
- 1446 d. Upon completion, each catch basin or manhole must be cleared of
1447 all accumulation of silt, debris or other foreign matter and kept
1448 clean until final acceptance.

1449 G. Vehicular Traffic

- 1450 (1). Adequacy of Road System. Vehicular access to the site shall be on roads
1451 which have adequate capacity to accommodate the additional traffic
1452 generated by the development. Intersections on arterial streets within a
1453 half (0.5) mile of any entrance road which are functioning at a Level of
1454 Service of D or better prior to the development shall function at a
1455 minimum at Level of Service D after development. If any such
1456 intersection is functioning at a Level of Service E or lower prior to the
1457 development, the project shall not reduce the current level of service. This
1458 requirement may be waived by the Planning Board if the project is located
1459 within a growth area designated in the Town's adopted Comprehensive
1460 Plan and the Board determines that the project will not have an
1461 unnecessary adverse impact on traffic flow or safety.
- 1462 a. A development not meeting this requirement may be approved if
1463 the applicant demonstrates that:

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- i. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
 - ii. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the municipality.
- 1472 (2). Traffic Impact Study. When required by the Planning Board or Staff
1473 Review Committee, a Traffic Impact Study will include the following
1474 elements related to the project and surrounding street network.
- 1475 a. An executive summary outlining the study findings and
1476 recommendations.
 - 1477 b. A physical description of the project site and study area
1478 encompassed by the report with a diagram of the site and its
1479 relationship to existing and proposed development sites within the
1480 study area.
 - 1481 c. A complete description of the proposed uses for the project site (in
1482 cases where specific uses have not been identified, the highest
1483 traffic generators within the category best fitting the proposed
1484 development must be used to estimate traffic generators).
 - 1485 d. Existing land uses and zone(s) in the vicinity of the site must be
1486 described. Any proposals for the development of vacant parcels or
1487 redevelopment of parcels within the study area of which the
1488 municipality makes the applicant aware, must be included in the
1489 description.
 - 1490 e. Street geometry and existing traffic control devices on all major
1491 streets and intersections affected by the anticipated traffic
1492 generated.
 - 1493 f. Trip generation must be calculated for the proposed project and
1494 other proposed new projects and redevelopment projects within the
1495 study area using the most recent data available from the Institute of
1496 Transportation Engineers' (ITE) Trip Generation Guide, and/or
1497 actual field data collected from a comparable trip generator (i.e.,
1498 comparable in size, location and setting). This data will be
1499 presented in a summary table such that assumptions on trip
1500 generation and rates arrived at by the engineer are fully
1501 understandable to the Planning Board.
 - 1502 g. The anticipated trip distribution of vehicles entering and exiting
1503 the proposed site during the appropriate peak hour(s) must be
1504 described and diagrammed.
 - 1505 h. Trip assignment, the anticipated utilization of study area streets by
1506 traffic generated by the proposed project, must be described and
1507 diagrammed.

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- i. Existing traffic conditions in the study area will be identified and analyzed based upon actual field counts and/or recent available machine counts.
 - j. Existing traffic conditions in the study area will be described and diagrammed, specifically AADT, appropriate peak design hour(s), traffic volumes, street and intersection capacities, and levels of service.
 - k. Existing safety conditions must be evaluated based upon the traffic accident data available for the most current three years and described including link and node critical rate factors (CRF).
 - l. Future traffic conditions on the street system will be estimated based on existing volumes, projected traffic growth in the general study area, projected traffic from approved development, and traffic generated by the proposed project, specifically AADT traffic, appropriate peak hour(s) traffic volumes, street and intersection capacity, street and intersection levels of service will be analyzed. When other projects are being proposed within the impact area of the project, the Planning Board may require these projects to be incorporated into the analysis.
 - m. When the analysis of the proposed project's impact on traffic indicates unsatisfactory CRF, levels of service or operating capacity on study area streets and intersections, a description of proposed improvements to remedy identified deficiencies must be included.
 - n. The base data collected and analyzed during the course of the traffic impact study.
 - o. If a development that requires a traffic impact study is within 500 feet of York or Eliot, Maine, or if the study identifies impacts on segments of Route 1 or Route 236 or on their intersections located in York or Eliot, Maine, the applicant must provide evidence that a copy of the impact study has been given to the impacted municipality's chief administrative officer;
- (3). Access to the Site. Vehicular access to and from the development shall be safe and convenient.
- a. Any driveway or proposed street shall be designed so as to provide the minimum sight distance according to the Maine Department of Transportation standards.
 - b. Points of access and egress shall be located to avoid hazardous conflicts with existing turning movements and traffic flows.
 - c. The grade of any proposed drive shall be not more than $\pm 3\%$ for a minimum of fifty (50) feet, from the intersection.
 - d. The intersection of any access/egress drive or proposed street shall function: (a) at a Level of Service of D following development if the project will generate one thousand (1,000) or more vehicle trips

- 1552 per twenty-four (24) hour period.
- 1553 e. Where a lot has frontage on two (2) or more streets, the primary
- 1554 access to and egress from the lot shall be provided from the street
- 1555 where there is less potential for traffic congestion and for traffic
- 1556 and pedestrians hazards. Access from other streets may be allowed
- 1557 if it is safe and does not promote shortcutting through the site.
- 1558 f. Where it is necessary to safeguard against hazards to traffic and
- 1559 pedestrians and/or to avoid traffic congestion, the applicant shall
- 1560 be responsible for providing turning lanes, traffic directional
- 1561 islands, and traffic controls within public streets.
- 1562 g. Accessways shall be designed and have sufficient capacity to avoid
- 1563 queuing of entering vehicles on any public street.
- 1564 h. The following criteria shall be used to limit the number of
- 1565 driveways serving a proposed project:
- 1566 i. No use which generates less than one hundred (100)
- 1567 vehicle trips per day shall have more than one (1) two-way
- 1568 driveway onto a single roadway. Such driveway shall be no
- 1569 greater than forty (40) feet wide.
- 1570 ii. No use which generates one hundred (100) or more vehicle
- 1571 trips per day shall have more than two (2) points of entry
- 1572 from and two (2) points of egress to a single roadway. The
- 1573 combined width of all accessways shall not exceed sixty
- 1574 (60) feet.
- 1575 iii. The Planning Board or Development Review Committee
- 1576 may limit a development to one (1) point of ingress/egress
- 1577 onto Routes 302, 35 and 115.
- 1578 (4). Accessway Location and Spacing. Accessways shall meet the following
- 1579 standards:
- 1580 a. Private entrances/exits shall be located at least fifty (50) feet from
- 1581 the closest unsignalized intersection and one hundred fifty (150)
- 1582 feet from the closest signalized intersection, as measured from the
- 1583 point of tangency for the corner to the point of tangency for the
- 1584 accessway. This requirement may be reduced if the shape of the
- 1585 site does not allow conformance with this standard.
- 1586 b. Private accessways in or out of a development shall be separated
- 1587 by a minimum of seventy-five (75) feet where possible.
- 1588 c. Accessways shall be aligned with accessways on the opposite side
- 1589 of a public street to the greatest extent possible.
- 1590 (5). Internal Vehicular Circulation. The layout of the site shall provide for the
- 1591 safe movement of passenger, service, and emergency vehicles through the
- 1592 site.
- 1593 a. Nonresidential projects that will be served by delivery vehicles
- 1594 shall provide a clear route for such vehicles with appropriate
- 1595 geometric design to allow turning and backing for a minimum of

- 1596 SU-30 vehicles.
- 1597 i. If the project is to be served by “tractor-trailer” delivery
1598 vehicles, a clear route for such vehicles with appropriate
1599 geometric design shall allow for turning and backing for a
1600 minimum of WB-50 vehicles.
- 1601 b. Clear routes of access shall be provided and maintained for
1602 emergency vehicles to and around buildings and shall be posted
1603 with appropriate signage (fire lane - no parking).
- 1604 c. The layout and design of parking areas shall provide for safe and
1605 convenient circulation of vehicles throughout the lot.
- 1606 d. All roadways shall be designed as follows:
- 1607 i. To harmonize with the topographic and natural features of
1608 the site insofar as practical by minimizing filling, grading,
1609 excavation, or other similar activities which result in
1610 unstable soil conditions and soil erosion,
- 1611 ii. By fitting the development to the natural contour of the
1612 land and avoiding substantial areas of excessive grade and
1613 tree removal, and by retaining existing vegetation during
1614 construction,
- 1615 iii. The road network shall provide for vehicular, pedestrian,
1616 and cyclist safety, all season emergency access, snow
1617 storage, and delivery and collection services.
- 1618 e. Nonresidential projects that include drive-through services shall be
1619 designed and have sufficient stacking capacity to avoid the
1620 queuing of vehicles on any public street.

1621 H. Cluster Residential Development

1622 [Amended 9-26-2011 by Ord. No. 11-15; 9-24-2012 by Ord. No. 12-09]

1623 (1). Purpose.

1624 To implement adopted Comprehensive Plan policies regarding the Town's
1625 natural, scenic, marine, cultural and historic resources, land use patterns
1626 and recreation and open space, this article is intended to encourage and
1627 allow new concepts and innovative approaches to housing/commercial
1628 development and environmental design so development will be a
1629 permanent and long-term asset to the Town, while in harmony with the
1630 natural features of the land, water and surrounding development.

1631 Objectives include:

- 1632 a. Efficient use of the land and water, with small networks of utilities
1633 and streets;
- 1634 a. Preservation of open space and creation of recreation areas;
- 1635 b. Maintenance of rural character, preserving farmland, forests and
1636 rural viewsapes;
- 1637 c. Preservation of areas with the highest ecological value;
- 1638 d. Location of buildings and structures on those portions of the site

- 1639 most appropriate for development;
- 1640 e. Creation of a network of contiguous open spaces or "greenways"
- 1641 by linking the common open spaces within the site and to open
- 1642 space on adjoining lands wherever possible;
- 1643 f. Reduction of impacts on water resources by minimizing land
- 1644 disturbance and the creation of impervious surfaces and
- 1645 stormwater runoff;
- 1646 g. Preservation of historic, archaeological, and cultural features; and
- 1647 h. Minimization of residential development impact on the
- 1648 municipality, neighboring properties and the natural environment.
- 1649 (2). Permitted zones.
- 1650 a. Cluster residential development is permitted in various zones as
- 1651 indicated in Chapter 16.4, Land Use Zone Regulations.
- 1652 (3). Dimension standards modifications.
- 1653 Notwithstanding other provisions of this title relating to dimensional
- 1654 standards, the Planning Board, in reviewing and approving proposed
- 1655 residential development under this article, may modify said dimensional
- 1656 standards to permit flexibility in approaches to site design in accordance
- 1657 with the standards of this title. The Board may allow subdivision or site
- 1658 development with modified dimensional standards where the Board
- 1659 determines the benefit of a cluster development is consistent with this title.
- 1660 Such modifications may not be construed as granting variances to relieve
- 1661 hardship.
- 1662 (4). Property ownership.
- 1663 Tracts or parcels of land involved in a development proposed under this
- 1664 article must be in single ownership; or must be the subject of an
- 1665 application filed jointly by the owners of all properties included; or must
- 1666 have an applicant with vested interest in all property included. Pursuant to
- 1667 the requirements of this article, mobile home parks or mobile homes on
- 1668 individual lots are not eligible for cluster residential development.
- 1669 (5). Application procedure.
- 1670 All development reviewed under this article is subject to the application
- 1671 procedures in §16.8, Subdivision Review, and the following:
- 1672 a. In addition to the requirements of § 16.8, Subdivision Review, the
- 1673 following are required at submittal of the sketch plan:
- 1674 i. Calculations and maps to illustrate:
- 1675 a. Proposed dimensional modifications and the
- 1676 dimensional standards required in the zone in which
- 1677 the development will be located;
- 1678 b. All land area identified in § 16.5.17, Net Residential
- 1679 Acreage; [Amended 9-28-2015 by Ord. No. 15-05]
- 1680 c. Net residential density; and [Amended 9-28-2015
- 1681 by Ord. No. 15-05]

- 1682 d. Open space as defined in § 16.8.10.H.(6).e, of this
1683 article.
- 1684 ii. A map showing constraints to development, such as, but
1685 not limited to, wetlands, resource protection zones,
1686 shoreland zones, deer wintering areas, side slopes in excess
1687 of 33%, easements, rights-of-way, existing roads, driveway
1688 entrances and intersections, existing structures, and existing
1689 utilities.
- 1690 iii. A written statement describing the ways the proposed
1691 development furthers the purpose and objectives of this
1692 article, including natural features which will be preserved
1693 or enhanced. Natural features include, but are not limited
1694 to, moderate-to-high-value wildlife and waterfowl habitats,
1695 important agricultural soils, moderate-to-high-yield
1696 aquifers and important natural or historic sites worthy of
1697 preservation.
- 1698 iv. The location of each of the proposed building envelopes.
1699 Only developments having a total subdivision or site plan
1700 with building envelopes will be considered.
- 1701 b. An applicant with a project that includes proposed public open
1702 space must obtain Town Council acceptance for the public land or
1703 easement following preliminary plan approval. Town Council
1704 acceptance is contingent upon receipt of final plan approval by the
1705 Planning Board.
- 1706 (6). Standards.
- 1707 a. The purpose and intent of this title must be upheld for any reviews
1708 conducted under this article.
- 1709 b. A cluster residential development must meet all requirements for a
1710 subdivision (and site plan where applicable) and all other
1711 applicable federal, state and local ordinances, except as modified
1712 by action of the Planning Board, where authorized.
- 1713 c. Public or privately shared sewer and water must be provided unless
1714 it is demonstrated to the Planning Board's satisfaction that
1715 alternative methods used result in a development that is compatible
1716 with this Article XI.
- 1717 d. Unless a public or shared sewer collection and treatment system is
1718 provided, no lot may be smaller than 20,000 square feet per single-
1719 family residence and 8,000 square feet per bedroom per
1720 multifamily residence as outlined in the Maine Minimum Lot Size
1721 Law, 12 M.R.S. § 4807-A.
- 1722 e. Open space requirements.
- 1723 i. Open space must contain at least 50% of the total area of
1724 the property and no less than 30% of the total net
1725 residential acreage, as defined.

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- ii. Total calculated open space must be designated as follows (see open space definitions in Chapter 16.2):
 - a. Open space, reserved;
 - b. Open space, common; and/or
 - c. Open space, public.
 - iii. The use of any open space may be further limited or controlled by the Planning Board at the time of final approval, where necessary, to protect adjacent properties or uses.
 - iv. Open space must be deeded in perpetuity for the recreational amenity and environmental enhancement of the development and be recorded as such. Such deed provisions may include deed/plan restrictions, private covenants, or arrangements to preserve the integrity of open spaces and their use as approved by the Planning Board.
 - v. Open space must also be for preserving large trees, tree groves, woods, ponds, streams, glens, rock outcrops, native plant life, and wildlife cover as identified in the applicant's written statement. In the **Business Park (BP) Zone**, open space may be both man-made and natural. Man-made open space must be for the development of recreational areas, pedestrianways and aesthetics that serve to interconnect and unify the built and natural environments.
 - vi. Open space should be in a contiguous form of unfragmented land to protect natural resources, including plant and wildlife habitats.
 - vii. A portion of the open space should be in close proximity to other open spaces used for recreation (e.g., a common green, multipurpose athletic field, gardens, and playgrounds).
 - f. **In the Business Park (BP) Zone**, the maximum building height is 40 feet. If the Planning Board finds that provisions for firesafety are adequate to allow buildings of greater height, then the Board may allow a building height of up to 60 feet as a part of the development plan review and approval process.
 - g. In cluster residential developments, no individual lot or dwelling unit may have direct vehicular access onto a public road existing at the time of development.
 - h. Where cluster residential development abuts a body of water, stream, or a significant wetland, then a usable portion of the shoreline, as well as reasonable access to such body, stream or wetland, must be a part of the commonly held land.
 - i. The developer must take into consideration the following points,

1770 and illustrate the treatment of buildings, structures, spaces, paths,
1771 roads, service and parking areas, recreational facilities, and any
1772 other features determined by the Planning Board to be a part of the
1773 proposed development.

1774 i. Orientation. Buildings, view corridors and other
1775 improvements are to be designed so scenic vistas and
1776 natural features are integrated into the development.
1777 Buildings should be sited to consider natural light and
1778 ventilation.

1779 ii. Utility installation. All utilities are to be installed
1780 underground, wherever possible. The Planning Board must
1781 require the developer to adopt a prudent avoidance
1782 approach when permitting aboveground electrical service
1783 installations. Transformer boxes, pumping stations and
1784 meters must be located so as not to be unsightly or
1785 hazardous to the public.

1786 iii. Recreation. Facilities must be provided consistent with the
1787 development proposal. Active recreation requiring
1788 permanent equipment and/or modification of the site may
1789 not be located within the wetland setback areas or
1790 contiguous reserved open space areas.

1791 iv. Buffering. Planting, landscaping, form and siting of
1792 buildings and other improvements, or fencing and
1793 screening must be used to integrate the proposed
1794 development with the landscape and the character of any
1795 surrounding development.

1796 v. Development setbacks. Setbacks from wetlands and water
1797 bodies must demonstrate compliance to Table 16.9 of
1798 Chapter 16.9. These setbacks must be permanently
1799 maintained as "no cut, no disturb" buffer areas. If the
1800 setback areas are not of substantial vegetation to provide a
1801 sufficient buffer, the Planning Board may require additional
1802 plantings.

1803 j. The location of subsurface wastewater disposal systems and a
1804 reserve area, if required, must be shown on the plan. The reserve
1805 areas must be restricted so as not to be built upon. The report of a
1806 site evaluator, licensed by the State of Maine, must accompany the
1807 plan. If the subsurface disposal system is an engineered system,
1808 approval from the Maine Department of Human Services, Division
1809 of Health Engineering, and the Municipal Plumbing Inspector must
1810 be obtained prior to Planning Board approval.

1811 (7). Open space dedication and maintenance.

1812 a. Prior to approval of the final plan by the Planning Board,
1813 documents for open space must be submitted to the Town for
1814 review by legal counsel. Subsequent to approval, there may be no

1815 further division of the open space; however, tracts or easements
1816 dedicated for public utilities, public access or structures accessory
1817 to noncommercial recreation, agriculture or conservation may be
1818 permitted within the open space.

1819 b. The open space(s) must be shown on the development plan with
1820 appropriate notation on the face thereof to indicate that:

1821 i. The open space must not be used for future building lots;
1822 and

1823 ii. A part or all of the open space may be dedicated for
1824 acceptance by the Town.

1825 c. If any, or all, of the open space is to be reserved for ownership by
1826 the residents and/or by commercial entities, the bylaws of the
1827 proposed homeowners' or similar governing association for
1828 commercial owners (in the Business Park Zone) and/or the
1829 recorded covenants must specify maintenance responsibilities and
1830 be submitted to the Planning Board prior to approval. See
1831 Subsection A above.

1832 d. Association responsibilities.

1833 i. Maintenance. The homeowners' association or similar
1834 association for commercial owners is responsible for the
1835 maintenance of open space(s) and other common facilities
1836 unless and until accepted by the Town. The stormwater
1837 management system must be maintained in accordance
1838 with § 16.10.8.F, Post-construction stormwater
1839 management. Associations must maintain adequate funds to
1840 defray these expenses. The Planning Board shall require an
1841 initial capital fund for associations to be paid by the
1842 developer to cover these expenses.

1843 ii. Inspection. Annually, by June 30, the developer or
1844 association must complete and submit to the Code
1845 Enforcement Officer a maintenance compliance report, on a
1846 form prepared by the Code Enforcement Officer, certifying
1847 compliance with any open space use and protection
1848 requirements. Said report must be completed by a Maine
1849 licensed civil engineer or certified soil scientist.

1850 e. Transition of responsibility. The developer must maintain control
1851 of such open space(s) and be responsible for maintenance until
1852 development, sufficient to support any and all associations,
1853 residential or commercial, has taken place. Responsibility and
1854 authority must be clearly defined and described in the recorded
1855 covenants, and such information must be distributed to any and all
1856 associations in a timely manner so the transition of responsibilities
1857 is seamless.

1858 (8). Predevelopment requirements.
1859 Prior to the beginning of site work, the applicant must file with the Town

1860 Planning Department all required performance guarantees and inspection
1861 escrows in forms acceptable to the Town Manager in accordance with
1862 § 16.10.8.2B.

1863 I. Utilities

1864 (1). Approval.

1865 The size, type and location of public utilities, such as streetlights,
1866 electricity, telephone, cable television, natural gas lines, fire hydrants,
1867 water and sewer lines, etc., must be approved by the Board and installed in
1868 accordance with accepted engineering practice.

1869 (2). Underground installation.

1870 Utilities, where feasible, are to be installed underground. The Board must
1871 require the developer to adopt a prudent avoidance approach when
1872 aboveground electrical installations are approved.

1873 J. Subdivision Noise Pollution Buffer

1874 (1). Green strip.

1875 Subdivision design must minimize the possibility of noise pollution either
1876 from within or without the development (from highway or industrial
1877 sources) by providing and maintaining a green strip at least 20 feet wide
1878 between the abutting properties that are so endangered.

1879 K. Prevention of erosion

1880 [Amended 9-26-2011 by Ord. No. 11-15; 10-26-2015 by Ord. No. 15-12]

1881 (1). No person may perform any act or use the land in a manner which would
1882 cause substantial or avoidable erosion, create a nuisance, or alter existing
1883 patterns of natural water flow in the Town. This does not affect any
1884 extractive operations complying with the standards of performance
1885 specified elsewhere in this title.

1886 a. When an excavation contractor, as defined in § 16.2.2, performs an
1887 activity that requires or results in more than one cubic yard of soil
1888 disturbance within the Shoreland or Resource Protection Overlay
1889 Zones, there must be a person responsible for management of
1890 erosion and sedimentation control practices on site, and that person
1891 must be certified in erosion control practices by the Maine
1892 Department of Environmental Protection. This person must be
1893 present at the site each day earthmoving activity occurs for a
1894 duration that is sufficient to ensure that proper erosion and
1895 sedimentation control practices are followed. This is required until
1896 erosion and sedimentation control measures have been installed,
1897 which will either stay in place permanently or stay in place until
1898 the area is sufficiently covered with vegetation necessary to
1899 prevent soil erosion. The name and certification number of the
1900 person who will oversee the activity causing or resulting in soil
1901 disturbance must be included on the permit application. Excavation
1902 contractors will have one year from the date of the adoption of this
1903 subsection to comply with certification requirements.

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- a. The above requirement of § 16.8.10.K.(1).a does not apply to a property owner performing work themselves, or a person or firm engaged in agriculture or timber harvesting when best management practices for erosion and sedimentation control are used.
 - b. The above requirement of § 16.8.10.K.(1).a only applies to regulated activities requiring local, state or federal permits and/or Planning Board approval.
- (2). All development must generally comply with the provisions of the "Environmental Quality Handbook, Erosion and Sediment Control," published by the Maine Soil and Water Conservation Commission.
- a. The developer must:
 - i. Select a site with the right soil properties, including natural drainage and topography, for the intended use;
 - ii. Utilize for open space uses those areas with soil unsuitable for construction;
 - iii. Preserve trees and other vegetation wherever possible;
 - iv. Hold lot grading to a minimum by fitting the development to the natural contour of the land; avoid substantial areas of excessive grade;
 - v. Spread jute matting, straw or other suitable material during construction in critical areas subject to erosion;
 - vi. Construct sediment basins to trap sediment from runoff waters during development; expose as small an area of subsoil as possible at any one time during development and for as short a period as possible;
 - vii. Provide for disposing of increased runoff caused by changed land formation, paving and construction, and for avoiding sedimentation of runoff channels on or off the site;
 - viii. Plant permanent and, where applicable, indigenous, vegetation and install structures as soon as possible for the purpose of soil stabilization and revegetation;
 - b. All logging or woodlot roads must be located, constructed and maintained in conformance with the erosion prevention provisions of "Permanent Logging Roads for Better Woodlot Management," published by the United States Department of Agriculture.
- (3). Where the Board has required a stormwater management and erosion control plan, said plan must be endorsed by the York County Soil and Water Conservation District or found satisfactory by the Town's Engineering Peer Reviewer.
- (4). All activities which involve filling, grading, excavation or other similar activities that potentially may result in unstable soil conditions, and which require a permit, must be made known in a written soil erosion and

- 1947 sedimentation control plan in accordance with the "Maine Erosion and
1948 Sediment Control Practices Field Guide for Contractors," 2015, and as
1949 amended. The plan must be submitted to the permitting authority for
1950 approval and must include, where applicable, provisions for:
- 1951 a. Mulching and revegetation of disturbed soil;
 - 1952 b. Temporary runoff control features, such as straw bales, silt
1953 fencing, filter socks or diversion ditches;
 - 1954 c. Permanent stabilization structures, such as retaining walls or
1955 riprap.
- 1956 (5). To create the least potential for erosion, development must be designed to
1957 fit with the topography and soil of the site. Areas of steep slopes where
1958 high cuts and fills may be required are to be avoided wherever possible,
1959 and natural contours must be followed as closely as possible.
- 1960 (6). Erosion and sedimentation control measures apply to all aspects of the
1961 proposed project involving land disturbance and must be in operation
1962 during all stages of the activity. The amount of exposed soil at every phase
1963 of construction must be minimized to reduce the potential for erosion.
- 1964 (7). Any exposed ground area must be temporarily or permanently stabilized in
1965 accordance with the "Maine Erosion and Sediment Control Practices
1966 Field Guide for Contractors," 2015, and as amended. All erosion control
1967 measures that are no longer necessary as determined by the CEO or
1968 Shoreland Resource Officer must be removed at the owner's expense.
- 1969 (8). Natural and man-made drainageways and drainage outlets must be
1970 protected from erosion from water flowing through them. Drainageways
1971 must be designed and constructed in order to carry water from a twenty-
1972 five-year storm or greater and be stabilized with vegetation or lined with
1973 riprap.
- 1974 L. Soil suitability
- 1975 [Amended 9-28-2015 by Ord. No. 15-07]
- 1976 (1). The requirements and standards of the State of Maine Department of
1977 Environmental Protection, Department of Health and Welfare, the latest
1978 edition of the State Plumbing Code and this title must be met.
 - 1979 (2). All land uses must be located on soils upon which the proposed uses or
1980 structures can be established or maintained without causing adverse
1981 environmental effects, including, but not limited to, severe erosion, mass
1982 soil movement, improper drainage, and water pollution to surface water
1983 and groundwater, whether during or after construction.
 - 1984 (3). Any proposed development requires a soil report based on information
1985 from the Maine Natural Resources Conservation Service (NRCS). Where
1986 subsurface wastewater disposal is required and the Soil Survey for York
1987 County or information from the Maine NRCS shows soils with severe
1988 restrictions for development, a Class A (high-intensity) soil survey must
1989 be provided by a soil scientist certified in the State of Maine. The survey

1990 must be based on the Maine Association of Professional Soil Scientists
1991 Standards for Soil Survey, revised 3/2009, or subsequent revision. In
1992 addition to evaluating soil properties, the soil scientist shall analyze and
1993 document characteristics of surrounding land and water areas, maximum
1994 groundwater elevation, presence of ledge, drainage conditions and any
1995 other data deemed appropriate by the soil scientist or required by the
1996 Planning Board. The soil scientist shall include recommendations for the
1997 proposed use to counteract soil limitations where any exist. A Class A soil
1998 survey must include a written soil narrative report accompanied by a soil
1999 map that depicts soil delineations and symbols identified in the report. The
2000 soil map must be prepared at the same scale as that of the development
2001 plan, with wetlands and floodplain depicted on both.

(4). When constructing a new dwelling unit on soils identified with severe
restrictions, requiring subsurface wastewater disposal and on a lot not
subject to subdivision regulation, a Class A (high-intensity) soil survey is
not required. However, the site's soil suitability must be assessed and
documented in a soil report by a Maine-certified soil scientist, a Maine-
certified geologist, or a Maine-licensed site evaluator. Prior to the issuance
of a building permit, the soil report must be submitted to the Code
Enforcement Officer (CEO) for review and assessment of compliance with
this title.

(5). Cluster residential, commercial or industrial development and similar
intensive land uses require a Class A (high-intensity) soil survey by a
Maine-certified soil scientist.

(6). Where nonclustered development is limited in scale and intensity, the
developer may request the Class A (high-intensity) soil survey required by
§ 16.9.1.4E above be waived by the Planning Board. The Board may grant
said waiver only after consideration by the Town's Peer Review Engineer
of the developer's explanation as to why a Class A soil survey is not
warranted. In the event a Class A soil survey is not required, the site's soil
suitability must be sufficiently assessed for compliance with this title.

M. Water quality and wastewater pollution.

(1). No activity is allowed to deposit on or into the ground or discharge to any
river, stream or brook, pond, or wetland any pollutant that, by itself or in
combination with other activities or substances, will impair designated
uses or the water classification of the water body.

(2). Wastewater to be discharged into Kittery Sewer Department sewers,
should they be available, must be in such quantities and/or of such quality
as to be compatible with standards established by the municipality or the
Sewer Department.

(3). To meet those standards, the municipality or Sewer Department may
require that such wastes undergo pretreatment or full treatment at the site
in order to render them acceptable for the treatment processes.

(4). The disposal of wastewater by means other than a public system must
comply with the laws of the State of Maine and the Town concerning

2035 water pollution. Where a public sanitary sewer system is located within
2036 200 feet of the property line as measured along a public way, the Town
2037 requires individual entrance into said sewer.
2038 (5). Discharge of sanitary wastes to any water body is subject to the issuance
2039 of Maine State Department of Environmental Protection licenses, but no
2040 such off-site discharge will be allowed unless same is buried or not visible
2041 to a point below normal low water and is secured against damage and
2042 uncovering by the tides, erosion or other foreseeable action.

2043 N. Floodplain areas.

2044 [Amended 9-26-2011 by Ord. No. 11-15]

2045 (1). Land along rivers, streams and ponds which is subject to flooding through
2046 storm or seasonal action, called floodplain areas, may be used for
2047 woodland, grassland, agricultural or outdoor recreational use. The Code
2048 Enforcement Officer shall maintain a map showing the latest updated
2049 federal and state information of the known floodplain areas, and no
2050 building shall be constructed therein when there are undue flooding
2051 hazards, unless it can meet all requirements of § 16.5.10, Floodplain
2052 Management, relating to flood hazard permit and review procedure, of this
2053 title. Floodplain areas shall be considered as those areas within the one-
2054 hundred-year frequency floodplain, as identified by an authorized federal
2055 or state agency, or where such identification is not available, are located
2056 on floodplain soils identified as described in the York County Soil Survey
2057 to comprise the following soil types: Alluvial-Ondawa fsl; Podunk fsl;
2058 Rumney fsl; Saco sl.

2059 O. Retention of Open Spaces and Natural or Historic Features

- 2060 (1). Tree clearing.
2061 Proposed development plans must, by notes on the final plan and deed
2062 restrictions, limit the clearing of trees to those areas designated on the
2063 plans.
- 2064 (2). Clearing or removal of vegetation for uses other than timber harvesting in
2065 Resource Protection or Shoreland Overlay Zone.
- 2066 a. In a Resource Protection or Shoreland Overlay Zone, cutting of
2067 vegetation is prohibited within the strip of land extending 100 feet,
2068 horizontal distance, inland from the normal high-water line, except
2069 to remove safety hazards. Elsewhere in a Resource Protection or
2070 Shoreland Overlay Zone, the cutting or removal of vegetation is
2071 limited to that which is necessary for uses expressly authorized in
2072 the Resource Protection or Shoreland Overlay Zone.
 - 2073 b. Except in areas as described in § 16.8.10.O.(1) and
2074 § 16.8.10.O.(2).a, above and 100 feet, horizontal distance, from
2075 any other water body, tributary stream or the upland edge of a
2076 wetland, a buffer strip of vegetation must be preserved as follows:
 - 2077 i. Clearance of an opening greater than 250 square feet in the
2078 forest canopy, or other existing woody vegetation if a

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forested canopy is not present, as measured from the outer limits of the tree or shrub crown, is prohibited. However, a footpath not to exceed six feet in width as measured between tree trunks and/or shrub stems is allowed, provided that a cleared line of sight to the water through the buffer strip is not created.

- ii. Selective cutting of trees within the buffer strip is allowed, provided a well-distributed stand of trees and other natural vegetation is maintained. Adjacent to water bodies, tributary streams and wetlands, a "well-distributed stand of trees" is defined as maintaining a minimum rating score of 16 per twenty-five-foot-by-fifty-foot rectangular area.

Diameter of Tree at 4 1/2 feet Above Ground Level (inches)	Points
2 to < 4	1
4 to < 8	2
8 to < 12	4
12 or greater	8

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a. The following governs in applying this point system:

1. The twenty-five-foot-by-fifty-foot rectangular plots must be established where the landowner or lessee proposes clearing within the required buffer;
2. Each successive plot must be adjacent to, but not overlap a previous plot;
3. Any plot not containing the required points must have no vegetation removed except as otherwise allowed by this title;
4. Any plot containing the required points may have vegetation removed down to the minimum points required or as otherwise allowed by this title; and
5. Where conditions permit, no more than 50% of the points on any twenty-five-foot-by-fifty-foot rectangular area may consist of trees greater than 12 inches in diameter.

- iii. For the purposes of § 16.8.10.O.(2).b.ii, "other natural vegetation" is defined as retaining existing vegetation under three feet in height and other ground cover and retaining at least five saplings less than two inches in diameter at 4 1/2 feet above ground level for each twenty-five-foot-by-fifty-

2116 foot rectangle area. If five saplings do not exist, no woody
2117 stems less than two inches in diameter may be removed
2118 until five saplings have been recruited into the plot.

2119 iv. Notwithstanding the above provisions, no more than 40%
2120 of the total volume of trees four inches or more in diameter,
2121 measured at 4 1/2 feet above ground level, may be removed
2122 in any ten-year period.

2123 a. To protect water quality and wildlife habitat,
2124 existing vegetation under three feet in height and
2125 other ground cover, including leaf litter and the
2126 forest duff layer, must remain uncut, uncovered or
2127 undisturbed, except to provide for a footpath or
2128 other permitted uses as described in
2129 § 16.8.10.O.(2).ii above.

2130 a. Pruning of tree branches on the bottom 1/3 of the
2131 tree is allowed.

2132 b. To maintain a buffer strip of vegetation, when the
2133 removal of storm-damaged, diseased, unsafe or
2134 dead trees results in the creation of cleared
2135 openings, these openings must be replanted with
2136 tree species that are suitable to Kittery's growing
2137 conditions unless existing new tree growth is
2138 present. See Design Handbook Kittery Maine,
2139 approved by the Kittery Planning Board, August 11,
2140 2005, pages 13 and 14, for the listing of approved
2141 plant materials.

2142 c. Article II of this chapter does not apply to those
2143 portions of public recreational facilities adjacent to
2144 public swimming areas as long as cleared areas are
2145 limited to the minimum area necessary.

2146 c. At distances greater than 100 feet, horizontal distance, from the
2147 normal high-water line of any other water body, tributary stream,
2148 or the upland edge of a coastal wetland, and 100 feet, horizontal
2149 distance, from the normal high-water line of any other water body,
2150 tributary stream, or the upland edge of a wetland, there will be
2151 allowed on any lot, in any ten-year period, selective cutting of not
2152 more than 40% of the volume of trees four inches or more in
2153 diameter, measured 4 1/2 feet above ground level. Tree removal in
2154 conjunction with the development of permitted uses must be
2155 included in the forty-percent calculation. For the purposes of these
2156 standards, volume may be considered to be equivalent to basal
2157 area.

2158 d. It is not permissible to clear openings for any purpose, including
2159 but not limited to principal and accessory structures, driveways,
2160 lawns and sewage disposal areas, exceeding in the aggregate 25%

2161 of the lot area within the Resource Protection or Shoreland Overlay
2162 Zone or 10,000 square feet, whichever is greater, including land
2163 previously cleared. This provision does not apply to the
2164 Commercial Fisheries/Maritime Activities Zones.

2165 e. Legally existing nonconforming cleared openings may be
2166 maintained, but must not be enlarged, except as allowed by this
2167 title.

2168 f. Fields and other cleared openings which have reverted to primarily
2169 shrubs, trees or other woody vegetation will be regulated under the
2170 provisions of this chapter.

2171 (3). Land dedication.
2172 Reserved land acceptable to the Planning Board and applicant may be
2173 gifted to the municipality as a condition of approval, only when Council
2174 has agreed to the gifting.

2175 (4). Landscape plan for preservation of natural and historic features.
2176 a. The applicant is required to submit a proposed development design
2177 plan(s) that includes a landscape plan showing:
2178 i. Preservation of existing trees 10 inches or more caliper at
2179 breast height;
2180 ii. Replacement of trees and vegetation;
2181 iii. Graded contours;
2182 iv. Streams, wetlands and water bodies; and
2183 v. Preservation of scenic, historic or environmentally
2184 significant areas.

2185 b. Cutting of trees on the northerly borders of lots should be avoided
2186 as far as possible to provide a natural wind buffer.

2187 c. Unless the applicant can demonstrate it is impracticable, street and
2188 lot layout must be adapted to the topography. Extensive grading
2189 and filling must be avoided as much as possible.

2190 (5). Archaeological or historic sites.
2191 a. When the proposed development contains any identified
2192 archaeological or historic sites or any areas identified by the Maine
2193 Critical Areas Program as rare and irreplaceable natural areas,
2194 these areas must be included in a development plan's open space,
2195 and suitably protected by appropriate covenants and management
2196 plans.

2197 a. Any proposed land use activity involving structural development
2198 or soil disturbance on or adjacent to sites listed on or eligible to be
2199 listed on the National Register of Historic Places must be
2200 submitted by the applicant to the Maine Historic Preservation
2201 Commission for review and comment at least 20 days prior to
2202 action being taken by the Town Planner and/or the Planning Board.
2203 The development Review Authority will consider comments

2204 received from the Commission prior to rendering a decision on the
2205 application.

2206 b. In Shoreland, Resource Protection or Commercial
2207 Fisheries/Maritime Uses Overlay Zones, a permit is not required
2208 for an archaeological excavation, provided the excavation is
2209 conducted by an archaeologist listed on the State Historic
2210 Preservation Officer's Level 1 or Level 2 approved list, and
2211 unreasonable erosion and sedimentation is prevented by means of
2212 adequate and timely temporary and permanent stabilization
2213 measures.

2214 P. Technical and Financial Capacity

2215 (1). Financial Capacity.

2216 a. The applicant shall have adequate financial resources to construct
2217 the proposed improvements and meet the criteria of the standards
2218 of these regulations. In making its determination the Planning
2219 Board shall consider all relevant evidence to the effect that the
2220 developer has the financial capacity to construct, operate, and
2221 maintain all aspects of the development. The Board shall also
2222 consider the proposed time frame for construction and the effects
2223 of inflation.

2224 (2). Technical Ability

2225 a. (The applicant shall retain qualified contractors and consultants to
2226 supervise, construct and inspect the required improvements in the
2227 proposed subdivision.

2228 a. In determining the applicant's technical ability the Board shall
2229 consider the applicant's previous experience, the experience and
2230 training of the applicant's consultants and contractors, and the
2231 existence of violations of previous approvals granted to the
2232 applicant.

2233 16.8.11 Post-Approval

2234 A. Approved final plan.

2235 (1). No subdivision plan shall be released for recording at the Registry of
2236 Deeds until the required performance guarantee has been posted. If an
2237 approved plan is not recorded in the Registry of Deeds within one (1) year
2238 of the original approval, it shall become null and void. The Planning
2239 Board may grant an extension as particular circumstances dictate, which
2240 may not exceed an additional ninety day period. Where applicable, the
2241 stormwater and erosion control maintenance agreement that must be
2242 included in the document of covenants, homeowners' documents and/or as
2243 riders to the individual deed must be recorded with the York County
2244 Registry of Deeds.

2245 B. Subdivision plan filing, recording. Prior to recording a subdivision plan in the

2246 York County Registry of Deeds, a subdivider must have acquired Planning Board
2247 approval in accordance with this title.

2248 C. Subdivision land conveyance.

2249 (1). No person, firm, corporation, or other legal entity may convey, offer, or
2250 agree to convey any land in a subdivision which has not been approved by
2251 the Planning Board, recorded in the York County Registry of Deeds and
2252 shown on the final plan as a separate lot.

2253 (2). Subdivision frontage street completion. No lot in a subdivision may be
2254 sold, leased or otherwise conveyed before the street upon which such lot
2255 has frontage is completed to rough grade standard up to and including the
2256 entire frontage of the lot. Prior to the issuance of certificates of occupancy
2257 by the CEO, the street from which the unit is accessed must be completed
2258 in accordance with § 16.5.25, Streets and Pedestrianways/Sidewalks Site
2259 Design Standards.

2260 D. Approved plan expiration. [Amended 1-28-2015 by Ord. No. 15-01]

2261 (1). A subdivision plan's approval will expire if work has not commenced
2262 within one year from the Planning Board date of approval. Where work
2263 has commenced within one year of such approval, the approval will expire
2264 unless work is complete within three years of the original date of Planning
2265 Board approval.

2266 (2). Prior to expiration, the Planning Board may, on a case-by-case basis, grant
2267 extensions to an approved plan expiration date upon written request by the
2268 developer for an inclusive period from the original approval date, not to
2269 exceed five years for a subdivision plan and three years for all other
2270 development plans.

2271 (3). When a plan's approval expires, the applicant may reapply subject to the
2272 Town Code current at the time of reapplication.

2273 E. Approval not acceptance of property. The approval by the Planning Board of a
2274 plan, a master site development plan or any other subsequent development plan
2275 does not constitute, nor is it evidence of, any acceptance by the municipality of
2276 any street, easement or other open space shown on the plan. When a park,
2277 playground or other recreation area is shown on the plan, approval of the plan
2278 does not constitute an acceptance by the municipality of such areas. The Planning
2279 Board must require the plan to be endorsed with appropriate notes to this effect.
2280 The Planning Board may also require the filing of a written agreement between
2281 the applicant and the municipal officials covering future deed and title, dedication
2282 and provision for the cost of grading, development, equipment and maintenance
2283 of any such recreation area.

2284 F. Performance Guarantees

2285 (1). Types of Guarantees. The applicant shall provide one of the following
2286 performance guarantees for an amount adequate to cover 100% of the total
2287 construction costs of all required improvements, plus an additional 10% as
2288 contingency. A performance guarantee shall not expire between October

- 2289 31 and Aril 15 the following year.
- 2290 a. Certified check payable to the municipality or a savings account or
- 2291 certificate of deposit naming the municipality as owner, for the
- 2292 establishment of an escrow account;
- 2293 i. For any account opened by the applicant, the Town of
- 2294 Windham shall be named as owner or co-owner, and the
- 2295 consent of the Town shall be required for a withdrawal.
- 2296 b. An irrevocable letter of credit, from a financial institution
- 2297 approved by the Town Manager, establishing funding for the
- 2298 construction of the subdivision, from which the municipality may
- 2299 draw if construction is inadequate.
- 2300 i. The letter of credit shall use the template established by the
- 2301 Town of Kittery.
- 2302 (2). Contents of guarantee. The performance guarantee shall contain the
- 2303 following:
- 2304 a. Construction schedule;
- 2305 b. Itemized construction cost estimates for roadways, curbing,
- 2306 esplanades, sidewalks, sanitary sewerage systems, storm drainage
- 2307 systems, utilities, street lighting, tree planting, erosion and
- 2308 sedimentation control measures, and other public improvements
- 2309 for each major phase of construction, taking into account inflation;
- 2310 c. Provisions for inspections of each phase of construction;
- 2311 d. Provisions for the release of part or all of the performance
- 2312 guarantee to the developer; and
- 2313 e. A date after which the applicant will be in default and the
- 2314 municipality shall have access to the funds to finish construction.
- 2315 (3). Release of Guarantee. Prior to the release of any part of the performance
- 2316 guarantee, the Town Manager shall determine to his/her satisfaction, in
- 2317 part based upon the report of the Town's Engineer or other qualified
- 2318 individual retained by the municipality and any other agencies and
- 2319 departments who may be involved, that the proposed improvements meet
- 2320 or exceed the design and construction requirements for that portion of
- 2321 phase of the subdivision for which the release is requested.
- 2322 a. Performance guarantees may be reduced periodically, but in no
- 2323 event more than one (1) time per month. In no case shall the
- 2324 performance guarantee be reduced by less than ten thousand
- 2325 dollars (\$10,000) at one time or in any line item where
- 2326 improvements remain to be completed.
- 2327 b. No performance guarantee shall be reduced to less than the ten
- 2328 (10) percent contingency until all work is complete.
- 2329 c. The Town shall retain the 10% performance guarantee contingency
- 2330 for a period of one (1) year from the date of final paving for any
- 2331 street to be offered for public acceptance. The guarantee shall

2332 ensure the workmanship and the durability of all materials used in
2333 the construction of public improvements within the right-of-way
2334 that may become defective within that one (1) year period, as
2335 determined by the Director of Public Works.

2336 (4). Default. If upon investigation, the town's consulting engineer or other
2337 qualified individual retained by the Town finds that any of the required
2338 improvements have not been constructed in general conformance with the
2339 plans and specifications filed as part of the application, he or she shall so
2340 report in writing to the Code Enforcement Officer, the Town Manager, the
2341 Planner and the applicant or builder. The Town Manager, or his or her
2342 designee, shall take any steps necessary to preserve the municipalities
2343 rights.

2344 G. Inspection of required improvements. [Amended 9-28-2015 by Ord. No. 15-08]

2345 (1). Prior to the commencement of any work associated with development
2346 approved in accordance with this title, the developer or duly authorized
2347 representative must provide a schedule of expected construction activities
2348 by phase to the inspecting official, which may be the Code Enforcement
2349 Officer (CEO) or their representative or, when applicable, the Town's Peer
2350 Review Engineer, and coordinate a preconstruction meeting. Attendance at
2351 said meeting must at a minimum include authorized representation from
2352 the Town, the developer and their general contractor. Meeting minutes
2353 must be prepared by the Town's representative and distributed to all
2354 attendees and the Town Planner.

2355 (2). The developer or general contractor shall coordinate inspections with the
2356 inspecting official and provide written notice at least seven days prior to
2357 commencing each major phase of construction as outlined in the
2358 construction schedule. When all phases of work are complete, the general
2359 contractor shall request a final inspection from the inspecting official, who
2360 shall prepare a punch list of any outstanding items to be completed, within
2361 seven days of the final inspection. Once all outstanding items have been
2362 completed, the developer or the general contractor shall coordinate a final
2363 walk-through where the inspecting official determines if the construction
2364 has been completed in accordance with the approved plans. The inspecting
2365 official shall provide, in writing, to the developer or the general contractor
2366 within seven days of the final walk-through what, if any, construction is
2367 not complete or confirm that the development is complete and has been
2368 constructed according to the approved plans.

2369 (3). If the inspecting official finds, upon inspection of the required
2370 improvements, that any of the required improvements have not been
2371 constructed in accordance with the approved plans and specifications, the
2372 inspecting official must report, in writing, to the Town Planner, the
2373 developer or duly authorized representative of the developer, and, when
2374 applicable, the CEO. The Town Planner shall inform the Planning Board
2375 of any issues identified by the inspections. The Town shall take any steps
2376 necessary to preserve the municipality's rights.

2377 (4). Where applicable and in advance of any construction, the developer must
2378 deposit sufficient funds for said inspections in an applicant's service
2379 account per Chapter 3.3. The amount is based on a scope of services and
2380 fee prepared by the Town's Peer Review Engineer after review of the
2381 developer's construction estimate prepared by a professional engineer or a
2382 qualified contractor.

2383 (5). Stormwater and erosion control inspection.
2384 a. During October to November of each year in which construction
2385 for grading, paving and landscaping occurs on a development site,
2386 the Town will, at the expense of the developer, cause the site to be
2387 inspected by a qualified individual. By December 1, the inspector
2388 must submit a site report to the Town Planner that describes the
2389 inspection findings and indicates whether stormwater and erosion
2390 control measures (both temporary and permanent) are in place and
2391 properly installed. The report must include a discussion and
2392 recommendation on any and all problem areas encountered.

2393 b. After major construction activities have been completed on a
2394 development site, the developer must, on or by July 1 of each year,
2395 provide a completed and signed certification to the Code
2396 Enforcement Officer per § 16.8.10.F, Post-construction stormwater
2397 management.

2398 c. Erosion control debris. The owner or occupant of any land in any
2399 zone must not allow erosion control materials, such as plastic
2400 erosion control fences and related stakes or other materials, to
2401 remain on the site but must remove the same within six months of
2402 the date such erosion control materials were installed, or the date
2403 when no longer required, whichever is later. When a violation is
2404 discovered, the Code Enforcement Officer will order compliance
2405 by written notice of violation to the owner of any land in any zone
2406 requesting removal of such violation within 30 days of the date of
2407 written notice. An extension of time to correct may be made by the
2408 Code Enforcement Officer for good and sufficient reason.

2409 H. Plan revisions after approval. No changes, erasures, modifications or revisions
2410 may be made to any Planning Board approved final plan, unless in accordance
2411 with the Planner's and CEO's powers and duties as found in Chapter 16.4, or
2412 unless the plan has been resubmitted and the Planning Board specifically
2413 approves such modifications. In the event a final plan is recorded without
2414 complying with this requirement, the same is null and void, and the Planning
2415 Board must institute proceedings to have the plan stricken from Town records and
2416 the York County Registry of Deeds. [Amended 9-26-2011 by Ord. No. 11-15]

2417 (1). Field changes. [Amended 9-24-2012 by Ord. No. 12-11]
2418 a. If at any time before or during the construction of the required
2419 improvements it appears to be necessary or desirable to modify the
2420 required improvements, the Code Enforcement Officer and Town
2421 Planner are authorized to approve minor plan amendments due to

2422 unforeseen field circumstances, such as encountering hidden
2423 outcrops of bedrock, natural springs, etc. The Code Enforcement
2424 Officer and Town Planner must issue any approval under this
2425 subsection in writing and transmit a copy of the approval to the
2426 Planning Board. Revised plans must be filed with the Town and
2427 recorded, where appropriate. The developer must provide the
2428 revised plan to the Town Planner, and it shall be recorded in the
2429 York County Register of Deeds when applicable.

2430 (2). Modifications to approved plan.

2431 a. Minor modifications. Modifications to a Planning Board approved
2432 plan that do not require Planning Board review per § 16.10.3.2
2433 may be approved by the Code Enforcement Officer and Town
2434 Planner. Such approvals must be issued in writing to the developer
2435 with a copy to the Planning Board. The developer must provide the
2436 revised plan to the Town Planner, and it shall be recorded in the
2437 York County Register of Deeds, when applicable. [Amended 9-24-
2438 2012 by Ord. No. 12-11]

2439 b. Major modifications. Major modifications (e.g., relocations of
2440 principal structures, rights-of-way or property boundaries; changes
2441 of grade by more than 1%) require Planning Board approval.

2442 I. Maintenance of improvements. The developer, or owner, is required to maintain
2443 all improvements and provide for snow removal on streets and
2444 pedestrianways/sidewalks unless and until the improvement has been accepted by
2445 the Town Council. Acceptance of Streets and Ways

2446 (1). Conditions. A street or way constructed on private lands by the owner(s)
2447 thereof and not dedicated for public travel prior to the enactment of this
2448 title must be laid out and accepted as a public street or way by the Town
2449 Council only upon the following conditions:

2450 a. The owners must give the Town a deed to the property within the
2451 boundaries of the street at the time of acceptance by the Town.

2452 b. A plan of said street or way must be recorded in the York County
2453 Registry of Deeds at the time of its acceptance.

2454 c. A petition for laying out and acceptance of said street or way must
2455 be submitted to the Town Council upon a form prescribed by the
2456 Commissioner of Public Works. Said petition must be
2457 accompanied by a plan, profile and cross section of said street as
2458 follows:

2459 i. A plan drawn, when practical, to a scale of 40 feet to one
2460 inch and to be on one or more sheets of paper not
2461 exceeding 24 inches by 36 inches in size. Said plan must
2462 show the North point; the location and ownership of all
2463 adjoining lots of land; rights-of-way and easements;
2464 streetlights and electric lines; boundary monuments;
2465 waterways, topography and natural drainage courses with

- 2466 contour at not greater than two-foot intervals; all angles,
2467 bearings and radii necessary for the plotting of said street
2468 and lots and their reproduction on the ground; the distance
2469 to the nearest established street or way, together with the
2470 stations of their side lines;
- 2471 ii. A profile of said street or way drawn to a horizontal scale
2472 of 40 feet to one inch and a vertical scale of four feet to one
2473 inch. Said profile must show the profile of the side lines
2474 and center line of said street or way and the proposed
2475 grades thereof. Any buildings abutting the street or way
2476 must be shown on said profile;
- 2477 iii. A cross section of said street or way drawn to a horizontal
2478 scale of five feet to one inch and a vertical scale of one foot
2479 to one inch; and
- 2480 iv. The location and size of water and sewer mains and surface
2481 water drainage systems, as installed.
- 2482 (2). Such street or way must have been previously constructed in accordance
2483 with the standards and criteria established in § 16.5, General Performance
2484 Standards and § 16.8, Subdivision Review.
- 2485 (3). Acceptance of streets and ways required in public interest.
- 2486 a. Notwithstanding the provisions of any other section hereof, the
2487 Town may at any time lay out and accept any street or way in the
2488 Town as a public street or way of said Town whenever the general
2489 public interest so requires. The cost of said street or way may be
2490 borne by the Town.
- 2491 (4). Easements.
- 2492 a. The Board may require easements for sewerage, other utilities,
2493 drainage and stream protection. In general, easements may not be
2494 less than 20 feet in width. Wider easements may be required.
- 2495 (5). No street or way to be accepted until after report.
- 2496 a. Street acceptance as Town way. Upon completion of construction
2497 of any street/road intended for proposal for acceptance as a Town
2498 way, a written certification that such way meets or exceeds the
2499 design and construction standards of this title, signed by a
2500 professional engineer registered by the State of Maine, prepared at
2501 the developer's expense, must be submitted to the Board. If
2502 underground utilities are laid in such way, the developer must also
2503 provide written certification from the servicing utility(ies), that
2504 such installation was in a manner acceptable to the utility. The
2505 Board is to review the proposal and forward a recommendation to
2506 the Town Council regarding acceptance.
- 2507 b. No street or way may be laid out and accepted by the Town
2508 Council until the Planning Board and the Public Works
2509 Commissioner have made a careful investigation thereof and

2510 reported to the Town Council their recommendations in writing
2511 with respect thereto.

2512 J. Recordkeeping in Shoreland and Resource Protection Overlay Zones. The Code
2513 Enforcement Officer is to keep a complete record of all essential transactions of
2514 development in the Shoreland and Resource Protection Overlay Zones, including
2515 applications submitted, permits granted or denied, variances granted or denied,
2516 revocation actions, revocation of permits, appeals, court actions, violations
2517 investigated, violations found, and fees collected. On a biennial basis, a summary
2518 of this record must be submitted to the Director of the Bureau of Land and Water
2519 Quality within the Department of Environmental Protection.

2520 K. Subdivision lot monumentation prior to sale. Prior to the sale of any approved
2521 subdivision lot, the subdivider must provide the Planner with a letter from a
2522 registered land surveyor, stating all monumentation shown on the plan has been
2523 installed.

2524 L. Utility service. Prior to the installation of any public utility to a site, the developer
2525 must have obtained all necessary approvals from the appropriate local, state or
2526 federal authority.

2527 M. Grading/construction final plan required. Grading or construction of roads,
2528 grading of land or lots, or construction of buildings which require a final plan as
2529 provided in this title, until such time as the final plan has been duly prepared,
2530 submitted, reviewed, approved and endorsed as provided in this title, is prohibited
2531 until the original copy of the final plan so approved and endorsed has been duly
2532 recorded in the York County Registry of Deeds.

2533 N. Nonstormwater discharge. No person, except where exempted in § 16.5.18,
2534 Nonstormwater Discharge may create, initiate, originate, or maintain a
2535 nonstormwater discharge to the storm drainage system. Such nonstormwater
2536 discharges are prohibited notwithstanding the fact that the municipality may have
2537 approved the connections, drains or conveyances by which a person discharges
2538 unallowable nonstormwater discharges to the storm drainage system. [Amended
2539 5-22-2017 by Ord. No. 17-06; 5-30-2018 by Ord. No. 04-18]

2540 O. Nuisances. Any violation of this title is deemed to be a nuisance.

2541 P. Erosion control debris. The owner or occupant of any land in any zone must not
2542 allow erosion control materials, such as plastic erosion control fences and related
2543 stakes or other materials, to remain on the site but must remove the same within
2544 six months of the date such erosion control materials were installed, or the date
2545 when no longer required, whichever is later. When a violation is discovered, the
2546 Code Enforcement Officer will order compliance by written notice of violation to
2547 the owner of any land in any zone requesting removal of such violation within 30
2548 days of the date of written notice. An extension of time to correct may be made by
2549 the Code Enforcement Officer for good and sufficient reason.

2550