

SECTION 21
SUBDIVISION CONTROLS

Article I – Authority and Administration

A. These standards have been prepared in accordance with provisions of Title 30-A M.R.S.A., Sections 4401-4406.

B. Administration

1. The Planning Board, hereinafter called the Board, shall administer these standards.
2. The provision of these standards shall pertain to all the land proposed for subdivision as herein defined within the boundaries of the Town of Fryeburg.
3. Subdivision Classification
 - a. Minor Subdivision: Any subdivision containing not more than 5 lots, dwelling units or other subdivision units.
 - b. Major Subdivision: Any subdivision containing more than 5 lots, dwelling units or other subdivision units.
4. The Planning Board shall not approve any new subdivision unless the proposed streets road and/or common driveways are designed in accordance with Section 23 – Road Standards.
5. The Planning Board shall require the applicant or his/her authorized agent to deposit in escrow with the Town an amount of money to cover the costs for any professional review of the plan and documents which the Board may feel is reasonably necessary to protect the environmental quality or general welfare of the Town. This escrow payment shall be made before the Board engages any outside party to undertake this review and make recommendations to the Board. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or his agent.
6. The Planning Board will not process an application for a new subdivision or for an amendment to an approved subdivision for any subdivider currently in default of any requirement of a previously approved subdivision.
7. Violations
 - a. No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with this ordinance.

- b. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- c. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- d. No public utility, water district, or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Board.
- e. Development of a subdivision without Board approval shall be considered a violation. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in this ordinance and recorded in the Registry of Deeds.
- f. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot is accessed is completed in accordance with this ordinance.
- g. Violations of the above provisions of this section are a nuisance and shall be punishable in accordance with the provisions of Title 30-A MRSA §4452.

Article II – Pre-application/Sketch Plan

A. Submissions

1. A Sketch Plan application form.
2. A Sketch Plan, which shall show in simple sketch form the proposed layout of streets, lots, buildings, and other pertinent features of the existing land and proposed subdivision.
3. General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawing required above.

This information shall include data on existing covenants, copy of the portion of the Oxford County Soil Survey covering the proposed subdivision, and available community facilities and utilities and information describing the subdivision proposal such as, number of residential lots, typical lot width and depth, price range, business areas, playgrounds, park areas and other public areas, proposed protective covenants and proposed utilities and street improvements.

Article III - Review and Approval of Minor Subdivision

A. General

The Planning Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a Minor Subdivision comply with all or any of the requirements specified for Major Subdivisions.

B. Procedure

1. Within six months after submission of the Sketch Plan, the subdivider shall submit an application for approval of a Final Plan at least fourteen (14) days prior to a scheduled meeting of the Board. Failure to do so shall require re-submission of the Sketch Plan to the Board. The Final Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board.
2. All applications for Plan approval for Minor Subdivisions shall be accompanied by a fee as shown on the Town of Fryeburg permit fee schedule.
3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.
4. The Planning Board shall vote as to whether a public hearing is warranted. If the majority so votes, there will be a public hearing. The Planning Board shall post and publish notice of the public hearing. Notice must be posted in the municipal office at least 14 days before the public hearing and notice of the hearing must also be advertised at least two times in a newspaper that complies with Title 1 M.R.S.A. Section 601 and that has a general circulation in the Town of Fryeburg.

Ten days prior to the public hearing the applicant must give written notice, either personally which is dated and signed by recipient or by certified mail, return receipt requested to: All property owners of record, as reflected by the municipal tax records, whose properties lie within 200 feet of the property in the Village Residential and Village Commercial Districts, and 500 feet of the property boundary in other districts.

5. The Board will, within sixty (60) days from the date of submission, approve, modify and approve, or disapprove the Final Plan. The Board shall specify in writing its reasons for any such modification or disapproval. If the Planning Board needs more time to review the application and the information presented, votes to hold a public hearing, or if the applicant needs more time to present additional information to show that the application is satisfactory, the Planning Board may vote to continue review of the application to another Planning Board meeting which is to be held within 60 days. This time period may be longer by mutual agreement of the applicant and the Planning Board. The motion to

continue must state the reason for the continuation and the date, time, and location of the meeting to which it is continued.

C. Submissions

6. The subdivision plan submittal for a Minor Subdivision shall consist of two full sized original plan(s), seven reduced copies of the plan(s), seven (7) copies of the application and supporting information, and a digital copy of all submitted plans and supporting information. The full sized plans shall be drawn to a scale of not more than one hundred (100) feet to the inch, which shall be legibly reproduced and the size of the sheets shall be 8 ½ x 11 inches or a multiple thereof, but in no case larger than 34 x 44 inches. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a Minor Subdivision shall include all the information presented on the Sketch Plan plus the following:
 - a. If a new street is proposed, then plans shall be submitted which conform to the requirements of Road Standards Section 23.D.2. The street must be designed and constructed in accordance with Section 23.
 - b. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
 - c. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the Plan.
 - d. A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. A lot by lot soils suitability determination for building with septic sewage disposal will accompany the plot plan soils study.
 - e. All on site sewage and water supply facilities shall be shown and designed to meet the minimum specifications of these standards and all pertinent State and local ordinances.
 - f. Proposed name of the subdivision or identifying title, and the name of the Municipality in which it is located.

- g. The date, north point, graphic map scale, name and address of record owner and subdivider, and names of adjoining property owners.
- h. Computations showing the net residential acreage and allowable density of development. For proposed cluster developments, the computations must depict the required amount of open space as outlined in Article VII, Section R.
- i. A soil erosion and sediment control plan.

Article IV - Preliminary Plan for Major Subdivision

A. Procedure

1. Within six months after submission of the Sketch Plan, the subdivider shall submit an application for the consideration of a Preliminary Plan for a major Subdivision. Failure to do so shall require resubmission of the Sketch Plan to the Planning Board. The Preliminary Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board.
2. The application for conditional approval of the Preliminary Plan shall be accompanied by a fee as shown on the Town of Fryeburg permit fee schedule.
3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.
4. After review of the Preliminary Plan, the Board may vote to require a site walk and/or may vote to hold a public hearing (majority vote required).

The Planning Board shall post and publish notice of the public hearing. Notice must be posted in the municipal office at least 14 days before the public hearing and notice of the hearing must also be advertised at least two times in a newspaper that complies with Title 1 M.R.S.A. Section 601 and that has a general circulation in the Town of Fryeburg.

Ten days prior to the public hearing the applicant must give written notice, either personally which is dated and signed by recipient or by certified mail, return receipt requested to: All property owners of record, as reflected by the municipal tax records, whose properties lie within 200 feet of the property in the Village Residential and Village Commercial Districts, and 500 feet of the property boundary in other districts..

5. Within sixty (60) days after formal submission of a Preliminary Plan, the Planning Board will take action to give preliminary approval, with or without modifications, or disapprove such Preliminary Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board, and the subdivider shall be notified in writing.

If the Planning Board needs more time to review the application and the information presented, votes to hold a public hearing or site walk, or if the applicant needs more time to present additional information to show that the application is satisfactory, the Planning Board may vote to continue review of the application to another Planning Board meeting which is to be held within 60 days. This time period may be longer by mutual agreement of the applicant and the Planning Board. The motion to continue must state the reason for the continuation and the date, time, and location of the meeting to which it is continued.

6. When granting preliminary approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to: (1) the specific changes which it will require in the Final Plan; (2) the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare, as decided by the Board; (3) the amount of improvements or the amount of all bonds, therefore which it will require as prerequisite to the approval of the Final Subdivision Plan.

The preliminary plan decision of the Planning Board, plus any conditions imposed, shall be forwarded to the subdivider.

7. Preliminary approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the Final Subdivision Plan, the Planning Board may require additional changes as a result of further study of the subdivision in final form or as a result of new information obtained at a public hearing.

B. Submissions

1. A Preliminary Major Subdivision Application Form
2. Preliminary Plan

The subdivision plan submittal for a Preliminary Subdivision Plan shall consist of two full sized original plan(s), seven reduced (11 x 17 inch) copies of the plan(s), seven (7) copies of the application and supporting information, and a digital copy of all submitted plans and supporting information. The full sized plans shall be drawn to a scale of not more than one hundred (100) feet to the inch, which shall be legibly reproduced and the size of the sheets shall be 8 ½ x 11 inches or a multiple thereof, but in no case larger than 34 x 44 inches. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a Preliminary Subdivision Plan shall show or be accompanied by the following information:

- a. Location Map drawn at an adequate size to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.
 - i. Locations, widths and names of existing or proposed streets, easements, building lines and alleys pertaining to the proposed subdivision.
 - ii. The boundaries and designations of zoning districts, school districts and parks or other public spaces.
 - iii. An outline of the proposed subdivision together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdividers entire holding.
- b. Proposed subdivision name or identifying title and the name of the Municipality.
- c. Name and address of record owner, subdivider and designer of Preliminary Plan.
- d. Number of acres within the proposed subdivision, location of property lines, existing easements, trails, buildings, impervious areas, and vegetative cover type
- e. Location of watercourses, wetlands (regardless of their size), significant wildlife habitats identified by the Department of Inland Fisheries and Wildlife, unique natural areas identified within the Comprehensive Plan or Maine Natural Areas Program, historic areas identified within the Comprehensive Plan or Maine Historic Preservation Commission, and other essential existing physical features.
- f. The boundaries of any Flood Hazard areas within the subdivision.

- g. Location of slopes in excess of 25% slope
- h. The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.
- i. The provisions of the zoning district dimensional requirements applicable to the area to be subdivided and any zoning district boundaries affecting the subdivision.
- j. Computations showing the net residential acreage and allowable density of development. For proposed cluster developments, the computations must depict the required amount of open space as outlined in Article VII, Section R.
- k. The location and size of any existing sewers and water mains, culverts and drains on the property to be subdivided.
- l. Location, names and present widths of existing and proposed streets, highways, easements, building envelopes, buffers, storm water and/ or phosphorus control measures, alleys, parks and other public open spaces.
- m. If a new street is proposed, then plans shall be submitted which conform to the requirements of Road Standards Section 23.D.2. The street must be designed and constructed in accordance with Section 23.
- n. Contour lines at intervals of not more than five (5) feet or at such intervals as the Planning Board may require.
- o. A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. A lot by lot soils suitability determination for building with septic sewage disposal will accompany the plot plan soils study.
- p. Location and results of tests to ascertain subsurface soil suitable for subsurface wastewater disposal systems.
- q. Date, true north point and graphic scale.
- r. Standard boundary survey made and certified by a registered land surveyor, tied into established reference points. The entire parcel or tract must be shown, including all contiguous land in common ownership within the last five years.

- s. Verification of right, title, and interest and copy of most recent recorded deed.
- t. Copy of any deed restrictions intended to cover the lots or dwellings within the subdivision.
- u. Indication of the type of water supply systems to be used in the subdivision and the location of drinking water wells within 100 feet of the property lines on adjacent properties.
- v. Estimate of the amount of traffic created by the subdivision.
- w. Provisions for collecting and discharging storm drainage, in the form of a drainage plan.
- x. Preliminary designs of any bridges or culverts, which may be required.
- y. The proposed lot lines with approximate dimensions and suggested locations of buildings.
- z. All parcels of land proposed to be dedicated to public use and the conditions of such dedication, or land to be left permanently unused.
- aa. The location of all natural features or site elements to be preserved.
- bb. A soil erosion and sediment control plan.
- cc. The Planning Board may require any additional information not listed above when it is necessary to determine if the proposed subdivision meets these Ordinance requirements and 30-A M.R.S.A. §4404.

Article V - Final Plan for Major Subdivision

A. Procedure

The subdivider shall, within six months after the preliminary approval of the Preliminary Plan, file with the Planning Board an application for approval of the Final Subdivision Plan in the form described herein. If the Final Plan is not submitted to the Planning Board within six months after the approval of the Preliminary Plan, the Planning Board may refuse without prejudice to act on the Final Plan and require re-submission of the Preliminary Plan.

1. If the proposed subdivision:

- a. Requires a license from the Department of Environmental Protection under the Natural Resources Protection Act, Site Location of Development or Storm water Law;
- b. Requires a license from the Department of Environmental Protection under some other regulation such as waste discharge or air quality;
- c. Requires a Maine Department of Transportation Traffic Movement Permit and/or Highway Entrance/Driveway Access Management Permit, or
- d. Requires any other Federal or State permits, licenses, approvals;

Then such approvals, permits, licenses shall be secured in writing before official submission of the Final Plan.

2. Water supply system proposals contained in the Subdivision Plan shall be approved in writing by:
 - a. The servicing water company if existing public water service is to be used, or
 - b. The State of Maine, Department of Health and Human Services if the subdivider proposes to provide a central water supply system, or
 - c. A civil engineer or hydrogeologist if individual wells serving each building site are to be used stating that there is evidence of adequate ground water suppl.

Such approval shall be secured before submission of the Final Plan.

3. Sewage disposal system proposals contained in the Subdivision Plan shall be properly endorsed and approved in writing by the State of Maine, Department of Health and Human Services if a separate central sewage collection and treatment system is to be utilized. Such approval shall be secured before official submission of the Final Plan.
4. The Planning Board shall hold a public hearing on the final plan. The Planning Board shall post and publish notice of the public hearing. Notice must be posted in the municipal office at least 14 days before the public hearing and notice of the hearing must also be advertised at least two times in a newspaper that complies with Title 1 M.R.S.A. Section 601 and that has a general circulation in the Town of Fryeburg.

Ten days prior to the public hearing the applicant must give written notice, either personally which is dated and signed by recipient or by certified mail,

return receipt requested to: All property owners of record, as reflected by the municipal tax records, whose properties lie within 200 feet of the property in the Village Residential and Village Commercial Districts, and 500 feet of the property boundary in other districts.

5. The Planning Board shall, within sixty (60) days from the date of the public hearing, approve, modify and approve or disapprove the Final Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board.

If the Planning Board needs more time to review the application and the information presented or if the applicant needs more time to present additional information to show that the application is satisfactory, the Planning Board may vote to continue review of the application to another Planning Board meeting which is to be held within 60 days. This time period may be longer by mutual agreement of the applicant and the Planning Board. The motion to continue must state the reason for the continuation and the date, time, and location of the meeting to which it is continued.

B. Submissions

1. A Final Major Subdivision Application Form
2. The Final Plan shall consist of two full sized original plan(s), seven reduced copies of the plan(s), seven (7) copies of the application and supporting information, a digital copy of all submitted plans and supporting information, plus copies sufficient for recording in the Registry. Space shall be reserved thereon for endorsement by all appropriate agencies. The Final Plan shall show:
 - a. All of the information presented on the Preliminary and any amendments thereto suggested or required by the Board, including plans showing conformance with Section 23 Road Standards.
 - b. The name, registration number and seal of the land surveyor, architect, engineer or planning consultant who prepared the plan.
 - c. Street names and line, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public use.
 - d. By proper designation, all public open space for which offers of cession are made by the subdivider and those spaces to which title is reserved by him.
 - e. Lots and blocks within the subdivision numbered in accordance with local practice.

- f. Permanent reference monuments shown thus: "X". They shall be constructed in accordance with specifications herein and their location noted and referenced upon the Final Plan.
- g. A performance guaranty to secure completion of all improvements required by the Board and written evidence that the Municipal Officers are satisfied with the sufficiency of such bond.

C. Final Approval and Filing

- 1. Upon completion of the requirements in Articles IV and V and notion to that effect upon the Plan, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the Planning Board. The Plan shall be filed with the Oxford County Registry of Deeds. Any Subdivision Plan not so filed or recorded within ninety (90) days of the date upon which such Plan is approved and signed by the Planning Board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two (2) additional periods of ninety (90) days.
- 2. Two additional final approval plans shall be properly signed by a majority of the members of the Planning Board. One will be filed with the Assessor and the other will be maintained as part of the Planning Boards record.
- 3. At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to insure the orderly development of the Plan. The applicant may file a section of the approved Plan with the Municipal Officers and the Registry of Deeds if said section constitutes at least 10% of the total number of lots contained in the approved Plan. In these circumstances, Plan approval of the remaining sections of the Plan shall remain in effect for three years or a period of time mutually agreed to by the Municipal Officers, Planning Board and the subdivider.
- 4. Except in approved phased development plan, failure to complete substantial construction of the approved subdivision within 5 years of approval shall render the plan and approval null and void.

D. Public Acceptance of Streets, Recreation Areas

1. The approval by the Planning Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement, or other open space shown on such Plan.
2. When a park, playground, or other recreation area shall have been shown on the Plan, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the Plan to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

Article VI – Review and Approval of Resubdivision or Revision to Approved Subdivision Plan

A. Modification Of Lot Line Configuration On Previously Approved Plans; Initial Review By Code Enforcement Officer

1. If the owner of a lot in a previously approved subdivision proposes to convey a portion of the lot or otherwise alter the boundaries of his or her lot (“alteration”), he or she will submit to the Code Enforcement Officer a notice of intention, together with a sketch plan showing the proposed alteration, and the Code Enforcement Officer will make a determination as to whether the proposed alteration, together with prior such alterations by any owners of lots shown on the plan, would, at the time of the subdivision’s approval, have had the effect of subjecting the prior review of the approved plan to materially different approval standards. By way of example, and not by way of limitation, if the proposed alteration would have increased the number of lots, such that the applicable street design or street construction standards would have been more stringent, the alteration would have had the effect of subjecting the prior review of the approved plan to materially different approval standards.
2. If the Code Enforcement Officer shall determine that the alteration would not have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the Code Enforcement Officer shall issue a written certificate reflecting such determination, and certifying that no further review of the proposed alteration by the Planning Board is required.

B. Planning Board Review

1. If the Code Enforcement Officer shall determine that the alteration would have had the effect of subjecting the prior review of the approved plan to materially different approval standards, the lot owner must obtain Planning Board approval for the alteration of the plan.

2. The Planning Board need not conduct the same degree of review upon a proposed alteration as would be required with respect to a proposed new subdivision; however, the Planning Board shall consider those standards for approval which were in effect at the time of the original plan approval, and shall take into consideration:
 - a. the degree of completion of development of all lots within the subdivision;
 - b. the extent to which the proposed alteration might itself or, if replicated upon other undeveloped lots (or on developed lots still capable of similar development),
 - i. materially affect the density of development of the land shown upon the plan;
 - ii. materially affect the sufficiency of the roads to accommodate traffic and emergency vehicle access;
 - c. the degree, if any, of potential interference of the proposed alteration with existing services for lots, such as wells or septic systems, including the potential for installing replacement septic systems, as they might be needed; and
 - d. the ability of the lots, as altered, to comply with the dimensional requirements of the current Land-Use Ordinance.

Article VII - General Requirements

In reviewing applications for the subdivision of land, the Board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

- A. Subdivision Plan shall conform to all pertinent state and local codes and ordinances, including Title 30-A M.R.S.A. §4404.
- B. Retention of Proposed Public Sites and Open Spaces

The Board may require that the subdivider reserve an area of land as open space and/or recreational area for use by the property owners within the subdivision. The Board will consider the need for recreational space and the proximity of other open spaces and recreational areas. Any area designated for common use shall be arranged so that each property owner has access to it.

- C. Preservation of Natural Features.

The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.

D. Historic Locations.

The Board shall consider the proposed subdivisions impact on historic buildings and sites, as identified in the Comprehensive Plan or as listed on the National Register of Historic Places. When a subdivision will include a historic building or site the applicant will design the subdivision to minimize the impacts on the historic building or site.

E. Land Not Suitable for Development

1. The following areas are not suitable for development: wetlands, streams, brooks, ponds, vernal pools, storm water drainage features, public and private right of ways, land zoned as resource protection, slopes in excess of 25%, and significant wildlife habitats as defined by the Department of Inland Fisheries and Wildlife. Land subject to flooding and land deemed by the Planning Board, on the recommendation of the Soil Conservation Service, to be uninhabitable, shall not be plotted for residential occupancy or for such other uses as may increase danger to health, life or property but such land shall be set aside for such uses as shall not produce unsatisfactory living conditions.
2. Wherever situated, in whole or in part, within two hundred-fifty (250) feet of the high water line of any pond, lake, river, a proposed subdivision shall conform to Section 20 – Shoreland Zoning.
3. Computation of density of a development will be based on net residential acreage. Net residential acreage as defined herein shall apply to the computation of development density and not to the permitability of building on any particular lot.

F. Density and Size of Subdivisions

In determining the allowable density of development within a subdivision, the Planning Board shall consider the “net residential acreage” as defined in this Ordinance and apply same to the density allowed in the subject zoning district.

Calculate the allowable number of lots by dividing the net residential acreage of the parcel of land by the minimum lot size of the district in which the development is located. The net residential acreage is calculated by taking the total area of the lot and subtracting, in order, the following:

1. Portions of the lot which, because of existing land uses or lack of access, are isolated and undevelopable for building purposes or for use in common with the remainder of the lot, as determined by the Planning Board.
2. Portions of the lot shown to be in the floodway as designated in the Flood Boundary and Floodway Map prepared by the Federal Emergency Management Agency.

3. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage, or subsoil conditions such as, but not limited to:
 - slopes in excess of 25%
 - organic soils
 - wetland soils
 - 50% of the poorly drained soils
4. Portions of the parcel subject to a right-of-way.
5. Portions of the parcel located in the Resource Protection Overlay District.
6. Significant wildlife habitats
7. Portions of the parcel covered by surface waters.
8. Portions of the parcel utilized for storm water management facilities.
9. Fifteen per cent (15%) of the remaining area of the parcel to account for roads.

G. Liquidation Harvesting

No division of land shall be approved if it is determined by the Planning Board that the parcel has been harvested in violation of rules of “Liquidation Harvesting”, pursuant to 12 MRSA Section 8866, et. Seq (“Forest Practices”).

H. Lots

1. All lots, save those in approved cluster subdivisions, shall conform to the minimum size and frontage as established by State law and by this Ordinance. No departure from such requirements shall be permitted except by variance.
2. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.
3. Side-lot lines shall be substantially at right angles or radial to street lines.
4. Odd shaped lots and spaghetti lots are prohibited. The ratio of lot length to width shall not be more than 5:1.
5. Where a tract is subdivided into lots substantially larger than the minimum size required in the zoning district in which a subdivision is located, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these standards.

6. Lot design shall permit the placement of wells and subsurface wastewater disposal areas in compliance with the Maine Well Drillers & Pump Installer Rules and the Maine Subsurface Wastewater Disposal Rules, if applicable.

I. Easements for Natural Drainage Ways.

Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of such water course and such further width or construction, or both, as will assure that no flooding occurs and all storm water can be disposed of properly. Such easement or right-of-way shall be not less than thirty (30) feet in width.

J. Utilities.

1. The size, type and location of public utilities, such as, street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the Board and installed in accordance with local practice.
2. Utilities shall be installed underground except as otherwise approved by the Board.

K. Erosion and Sedimentation Control

All activities which involve filling, grading, excavation or other similar activities which result in destabilized soil conditions shall comply with the following:

1. The site shall be developed so as to prevent soil erosion from entering waterbodies, wetlands, storm water drainage features, and adjacent land.
2. All temporary and permanent erosion control measures shall be designed in accordance with the current edition of “Maine Erosion and Sediment Control Best Management Practices”, by the Maine Department of Environmental Protection.
3. Erosion control features shall be shown on the plan and provisions for maintenance shall be included.

L. Groundwater

Any subdivision proposed within a Sand and Gravel Aquifer shall be designed and constructed according to a plan which takes into account the impact of the development upon the aquifer. The plan developed by a professional engineer or qualified groundwater consultant will show that the proposed development will not have an adverse impact upon the aquifer.

M. Storm water

1. For subdivisions that require a DEP review under the Site Location of Development Act (SLDA), a storm water management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Storm water Regulations.
2. For subdivisions that do not require a SLDA permit, but require a DEP permit under the Storm water Law, a storm water management plan shall be submitted which complies with the requirements of DEP Chapter 500 Storm water Regulations.
3. For subdivisions outside of the watershed of a Great Pond, that neither requires a SLDA permit, nor a DEP permit under the Storm water Law, a storm water management plan shall be submitted which incorporates low impact development techniques on each individual lot, as described in the current edition of Maine Storm water Best Management Practices Manual.
4. For subdivisions within the watershed of a Great Pond, containing: five or more lots or dwelling units created within any five-year period; or any combination of 800 linear feet of new or upgraded driveways and/or streets; a storm water management plan shall be submitted which complies with the Basic Standards of DEP Chapter 500 Storm water Management and the Phosphorous Standard of Chapter 500.

N. Landscaping

1. Street trees, esplanades and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses.
2. The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least twenty (20) feet wide between abutting properties that are so endangered.

O. Cluster Development

The purpose of these provisions is to encourage the preservation of the rural character of Fryeburg by preserving undeveloped land, including farm land, forest land, and other undeveloped lands. This is done by allowing an innovative type of development which permits homes to be built on lots which are smaller than normally allowed, but requires undeveloped land to be preserved. The overall density of a cluster development is no greater than an unclustered development.

1. Cluster developments must meet all requirements for a subdivision, the street construct and acceptance requirements, and all other applicable town ordinances, including the applicable Performance Standards of this Ordinance.
2. Each building must be an element of an overall plan for site development. The developer must specify the placement of buildings and the treatment of spaces, paths, roads, utility service, and parking, and in so doing must take into consideration all requirements of this subsection and of other relevant sections of this Ordinance.
3. A high-intensity soil survey must be submitted. No building may be constructed on soil classified as being very poorly drained.
4. Except for in-ground homes, no building may be located or constructed on slopes steeper than 25%.
5. No building may be located or constructed within 100 feet of any water body or wetland.
6. No lot may be smaller in area than 20,000 square feet.
7. The total area of undeveloped land within the development must equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required in the district.
8. The setback standards of the district in which the buildings are located apply.
9. No individual lot or dwelling unit may have direct vehicular access onto a public road existing at the time of development.
10. Shore frontage may not be reduced below the minimum normally required in the Shoreland Overlay District.
11. Where a cluster development abuts a body of water, a usable portion of the shoreline, as well as access to it, must be a part of the undeveloped land.
12. That portion of the cluster development which abuts a street not in the cluster development and along the exterior boundaries of the cluster development must be designed as a continuous landscaped buffer area not less than 50 feet in width. This buffer area may contain no structures or streets other than driveways or streets providing access to the cluster development. The first 25 feet of the buffer strip, as measured from the exterior boundaries of the development, must contain natural vegetation.
13. The undeveloped land is that area which is not included in the residential lots, which equals at least the total area by which all of the lots the cluster development are reduced below the normal minimum lot size in the district. There may be no further subdivision of the undeveloped land. This undeveloped land may be used only for agriculture, forestry, conservation, or noncommercial recreation. However, easements for public utilities, or structures accessory to noncommercial recreation, agriculture, or conservation, may be approved by the Planning Board.

14. The undeveloped land must be shown on the development plan and with appropriate notation on the face thereof to indicate:
 - a. That the undeveloped land may not be used for future building lots; and
 - b. The final disposition of the undeveloped land, which may be:
 - (1) dedicated to the Town for acceptance. The Planning Board must approve the language of the dedication and the uses allowed in the undeveloped land.
 - (2) deeded to a land trust. The Planning Board must approve the land trust and the conditions of the deed.
 - (3) retained by the applicant. The land may only be used for active agriculture or active forestry. The conditions of this use must be approved by the Planning Board and indicated on the development plan.
 - (4) reserved for ownership by a homeowners' association made up of the owners of the lots in the cluster development. If any or all of the undeveloped land is to be reserved for use by the residents in a homeowners association, a homeowners' association must be formed and the bylaws of the homeowners' association must specify maintenance responsibilities. The bylaws must be submitted to the Planning Board for its approval prior to approval of the development plan. Covenants for mandatory membership in the association, setting forth the owners' rights and interest and privileges in the association and the undeveloped land must be included. The homeowners' association has the responsibility of maintaining the undeveloped land and any common facilities. The developer must maintain control of the undeveloped land and be responsible for its maintenance until development sufficient to support the association has taken place.

Article VIII - Design Standards

A. Monuments

1. Permanent monuments shall be set at all corners and angle points of the subdivision boundaries and at all street intersections and points of curvature.
2. Monuments shall be stone or iron post with engineer's cap, located in the ground at final grade level, and indicated on the Final Plan. If stone monuments are set, drill holes, one half inch (1/2") deep shall locate the point or points described above.

B. Street Signs

1. Streets that join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, or bare phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the E911 Addressing Officer.

C. Water Supply

1. A public water supply system, with fire hydrants, shall be installed at the expense of the subdivider, or if service to each lot by a public water system is not feasible, the Board shall allow individual wells to be used, which shall likewise be installed at the expense of the subdivider, unless subdivider is only selling lots, not developing them.
2. The Planning Board may require the subdivider shall demonstrate by engineering reports prepared by a civil engineer registered in the State of Maine that the proposed subdivision will not result in an undue burden on the source.
3. The water supply shall be designed and installed in accordance with requirements of the Maine Department of Health and Human Services.

D. Fire Suppression

The subdivision shall be designed so that the Town of Fryeburg Fire Department shall have unrestricted access to all developed areas within the subdivision and adequate provisions are made for a supply of water for fire suppression, whether through public water hydrants, underground storage reservoirs, ponds with dry hydrants, or some other means. The applicant shall submit evidence that the fire protection measures proposed for the subdivision have been reviewed and approved by the Fire Chief.

E. Sewage Disposal

If a private sewage disposal system is proposed, the subdivider shall submit locations and results of tests to ascertain subsurface soil and ground water conditions, depth to maximum ground water level, location and results of percolation tests for review and approval under the State of Maine Subsurface Wastewater Disposal Rules.

F. Road Design and Construction

If a new street/road is proposed, then it must be designed and constructed in accordance with Section 23.

Article IX - Improvement Guarantees

- A. Before the submission of a Final Plan the subdivider shall provide the Town with improvement guarantees if road construction, offsite improvements, utilities, common water and/or sewer, recreational land, phosphorus or storm water controls or drainage work is planned.

The subdivider shall provide performance guarantees for an amount adequate to cover the total construction costs. The subdivider shall file with the Planning Board a proposed improvement guarantee, a plan by a professional engineer for the required improvements, and estimates to complete the required work by at least two contractors.

The Planning Board shall determine whether the form, amount and duration of the improvement guarantee are sufficient. The Planning Board shall not grant final approval until it has received a sufficient guarantee. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.

The burden of submitting improvement guarantees in compliance with this Ordinance shall at all times remain with the subdivider.

B. Types of Guarantees:

1. Escrow Account: A cash distribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the municipality shall be named as owner or co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the applicant except for any portion of the interest earned which was needed in addition to the principal of the escrow account to pay for completion of the required improvements.
2. Performance Bond: The subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the municipality. The bond documents shall specifically reference the project for which approval is sought. The duration of the bond shall be for a period of time acceptable to the Planning Board.
3. Letter of Credit: An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the street and may not be used for any other project or loan. The letter of credit shall be deposited with the Planning Board and shall certify the following:

- a. That the creditor does guarantee funds in an amount equal to the estimated costs of completing all improvements required.
 - b. In case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Fryeburg immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the credit limit stated in the letter;
 - c. That the letter of credit is valid for the period of time required by the Planning Board. During that time, the letter may not be withdrawn or reduced in amount except with the approval of the Planning Board.
- C. Contents of Guarantee: The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default, and the Town shall have access to the funds to finish construction.
- D. Release of Guarantee: Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.
- E. Reduction of Guarantee: The Planning Board may release, at their discretion, the guarantee subject to the following provisions:
1. The project is 90% complete as determined by the Planning Board.
 2. There are no deficiencies in the project.
 3. A cash bond performance guarantee is agreed to for one-hundred fifty percent (150%) of the remaining cost of the project.
- F. Default: If, upon inspection, it is found that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, the Code Enforcement Officer shall so report in writing to the Board of Selectmen, the Planning Board, and the subdivider or builder. The Planning Board shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee. They shall cause the incomplete or unsatisfactory work to be completed and to be paid for from the improvement guarantee assets. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work, and associated costs, shall be returned to the subdivider at the discretion of the Planning Board.

Article X – Time Limit

A. Completion Deadline

All required improvements within a subdivision shall be completed within two years of final subdivision approval. The improvement guarantee must provide performance protection to the Town during said two year period plus at least six months following the expiration of the two year period. The additional six month period is required as protection to the Town in the event the subdivider fails to complete the required improvements or fails to complete them satisfactorily.

B. Extension

The Planning Board may extend the completion deadline for two additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered until at least six months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Planning Board shall require that the improvement guarantee be extended in duration to cover the extended period of time plus an additional six month period. Before extending the initial deadline or the initial extension, the Planning Board shall review the form and amount of the improvement guarantee to make certain it remains adequate.

Article XI – Inspection and Certification

A. Notification of Construction: At least five (5) days prior to commencing construction, the applicant shall.

1. Notify the Code Enforcement Officer in writing of the day and time when construction is proposed to commence. A qualified independent inspecting agency and/or official will be retained by the Town. The inspecting official shall assure that all municipal specifications, requirements and conditions of approval shall be met during the construction and shall assure the satisfactory completion of improvements required by the Planning Board.
2. Deposit with the Town a check for the amount of 2% of the estimated costs of construction and improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus funds shall be refunded to the applicant within 30 days. If the inspection account shall be drawn down by 90%, the applicant shall deposit an additional 1% of the estimated costs of construction and improvements.

B. Noncompliance With Plan: Upon a finding that the improvements have not been constructed in accordance with the approved plans and specifications, the inspector shall so report in writing to the Board of Selectmen, Planning Board, Code Enforcement Officer and applicant. The Town shall take any steps necessary to assure compliance with approved Plans.

- C. Modification During Construction: If at any time it appears necessary or desirable to modify the required improvements before or during construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board of Selectmen, Planning Board and Code Enforcement Officer. Revised plans shall be filed with the Planning Board for the record. For major modifications, such as relocation of rights-of-way, changes in grade by more than 1%, etc. the applicant shall submit to the Planning Board an amended application for review and approval.
- D. Inspections Required: For road construction, the following inspections are required by a third party inspector before work may continue:
- Stumping and grubbing;
 - Erosion Control measures;
 - Sub-grade preparation, and drainage;
 - Application of the base gravel;
 - Application of final grade;
 - Hot top, and seeding.
- E. Certification: Upon completion of the improvements, the subdivider shall file the following with the Code Enforcement Officer:
1. A sworn statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan and that the engineer knows of no defects from any cause in the improvements;
 2. A sworn statement from the subdivider that the improvements are free and clear of any encumbrance or lien and that the subdivider knows of no defects from any cause in the improvements.

ARTICLE XII WAIVERS

- A. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these standards or where there are special circumstances of a particular Plan, it may waive these standards so that substantial justice may be done and the public interest secure; provided that such waivers will not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or the Land Use Ordinance, where such exist.
- B. Where the Planning Board finds that, due to special circumstances of a particular Plan, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is inappropriate because of

inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

- C. Waivers may only be granted by a unanimous vote of the Planning Board, present and voting, upon a written finding that the purpose and intent of the Ordinance will be maintained without the applicant meeting the specific standard.

ARTICLE XIII APPEALS

- A. An appeal of the Planning Boards Final Subdivision Approval shall be taken directly to Superior Court.