

**SUBDIVISION
ORDINANCE**
OF THE
TOWN OF CASTINE, MAINE



ENACTED BY THE TOWN IN MEETING ASSEMBLED

THE 25TH DAY OF SEPTEMBER 1996

(AND AS THEREAFTER AMENDED)

ATTEST: THIS IS A TRUE DOCUMENT. THE *SUBDIVISION ORDINANCE OF THE TOWN OF CASTINE, MAINE*, HAS BEEN IN EFFECT WITHOUT CHANGE FROM 25 SEPTEMBER 1996 TO THE DATE HEREOF, EXCEPT AS AMENDED THROUGH 7 MAY 2002, AS SHOWN.

DATED: 8 MAY 2002

SIGNATURE: _____

AFFIX SEAL

SUSAN M. MACOMBER
CASTINE TOWN CLERK

SUBDIVISION ORDINANCE OF THE TOWN OF CASTINE, MAINE

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Amendment 1 7 May 2002
Articles amended: 1, 3 and 4.

ARTICLE 1: PURPOSE

The purpose of this Ordinance is:

- 1.1** To assure that new development in the town of Castine meets the goals and conforms to the policies of the current Comprehensive Plan of the Town of Castine; [\[Am. #1, 05/07/02\]](#)
- 1.2** To provide for an expeditious and efficient process for the review of proposed subdivisions;
- 1.3** To clarify the criteria of the state subdivision laws, Title 30-A M.R.S.A. § 4401- § 4407, as they apply to Castine;
- 1.4** To assure the comfort, convenience, safety, health and welfare of the people of the Town of Castine;
- 1.5** To protect the environment and conserve the aesthetic, natural and cultural resources of the Town;
- 1.6** To assure a minimal level of service and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting proposed uses and structures;
- 1.7** To minimize the potential impacts from new subdivisions on neighboring properties and the Town; and
- 1.8** To promote the development of an economically sound and stable Town.



ARTICLE 2: AUTHORITY AND ADMINISTRATION

2.1 AUTHORITY.

- 2.1.1** This Ordinance is adopted pursuant to the home rule authority of municipalities as provided in Article VIII, part 2, section 1 of the Maine Constitution, Title 30-A M.R.S.A. § 3001 and § 3002 and with the provisions of Title 30-A M.R.S.A. § 4403.
- 2.1.2** This Ordinance shall be known as and may be cited as the “Subdivision Ordinance of the Town of Castine, Maine.”

2.2 ADMINISTRATION.

- 2.2.1** The Planning Board of the Town of Castine, hereinafter called the Board, shall administer this ordinance.
- 2.2.2** The provisions of this ordinance shall pertain to all land and buildings proposed for subdivisions within the boundaries of the Town of Castine, hereinafter called the Town or Castine.

2.3 SEVERABILITY.

Should any section or provision of this Ordinance be declared to be invalid by a court, such decision shall not invalidate any other section or provision of this Ordinance.

2.4 CONFLICT.

Should any section or provision of this Ordinance be found to be in conflict within this Ordinance or in conflict with other local, state or federal statutes, ordinances or regulations, the more stringent section or provision shall prevail.

2.5 AMENDMENTS.

- 2.5.1** This ordinance may be amended by a majority vote at any regular or special town meeting.
- 2.5.2** A public hearing shall be held prior to the adoption of any amendment. Notice of the hearing shall be provided at least seven days in advance of the hearing.

2.6 EFFECTIVE DATE.

This Ordinance shall take effect thirty (30) days after its adoption by a majority of the voters at a regular or special town meeting. (Passed at a Special Town Meeting September 25, 1996)



ARTICLE 3: DEFINITIONS

3.1 In general, words used in this Ordinance shall have their customary dictionary meanings.

3.2 All terms defined in the *Zoning Ordinance of the Town of Castine, Maine* shall have the definitions contained in that ordinance and are not repeated below.

3.2 The present tense when used includes the future; the singular includes the plural; the word “shall” means mandatory; the word “may” is permissive; the words “used” or “occupied” include the words “intended”, “designed” or “arranged to be used or occupied”; the word “structure” includes the word “building”; and the word “lot” includes the word “plot.”

3.3 The word “dwelling unit” as used in this Ordinance is synonymous to the word “lot.”

3.4 It is intended that this ordinance not be gender specific. Thus, when nouns or pronouns indicate or imply a male or female, such use shall also mean the other gender

3.5 Other words and terms used herein are defined as follows:

100 YEAR FLOOD: The highest level of flood that, on the average, is likely to occur once every 100 years.

AFFORDABLE HOUSING: Decent, safe and sanitary dwellings, apartments or other living accommodations for low-income and moderate-income households. (30-A M.R.S.A. § 5002) [[Am. #1, 05/07/02](#)]

LOW-INCOME HOUSEHOLD: Households, in which gross income does not exceed 80% of the median income of the county or metropolitan statistical area in which the household is located, as defined by the United States Housing Act of 1937, Public Law 412, 50 Stat.888, Section 8, as amended. [[Am. #1, 05/07/02](#)]

MODERATE-INCOME HOUSEHOLD: Households in which gross income does not exceed 150% of the median income of the county or metropolitan statistical area in which the household is located. [[Am. #1, 05/07/02](#)]

APPLICANT: The person, partnership, trust, fiduciary, business entity, agent of the owner or corporation applying for subdivision approval. It may also be a proposed purchaser or an agent of a proposed purchaser whose purchase and sales agreement gives him the right to apply as a condition of sale.

BUFFER AREA: A part of a property or an entire property, which is not built upon and is specifically intended to separate and through such separation minimize the effects of a land use activity (i.e. noise, dust, visibility, glare) on adjacent properties or on sensitive natural resources.

CAPITAL IMPROVEMENT PROGRAM (CIP): The town’s proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of

financing each project.

CAPITAL INVESTMENT PLAN: The identification of the projects that need to be considered for inclusion within the Capital Improvement Program, together with an estimate of the order of the cost of each project.

CLUSTER SUBDIVISION: A subdivision in which lots or dwelling units are concentrated on smaller lots on one or more parts of a parcel to provide dwelling units that are affordable to low and moderate income households; to preserve the remaining land as open space for conservation and/or recreation; or to protect scenic, historic or aesthetic sites. [\[Am. #1, 05/07/02\]](#)

COMMON OPEN SPACE: Condominium common elements or land within or related to a subdivision, not individually owned, which is designated & intended for the common use or enjoyment of the residents of the development or the general public. It may include complementary structures and improvements, which are typically used for maintenance and operation of open space or for outdoor recreation.

COMPLETE APPLICATION: An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Board to waive the submission of required information. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

COMPLETE SUBSTANTIAL CONSTRUCTION: The construction of no less than thirty percent of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a planned unit development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

CURRENT EDITION: The most recent issuance of the cited regulation, technical manual or other publication.

DENSITY: The number of dwelling units per acre of land.

DEVELOPED AREA: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas and streets.

DRIVEWAY: A vehicular access-way serving no more than two dwelling units.

EASEMENT: A grant of one or more property rights to another individual or entity by the landowner.

EASEMENT, CONSERVATION: A nonpossessory interest in real property imposing limitations or affirmative obligations the purpose of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

ENGINEERED SUBSURFACE WASTE WATER DISPOSAL SYSTEM: A subsurface wastewater disposal system designed, installed, and operated as a single wastewater unit to treat 2,000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater. All such systems shall be reviewed and approved by the Department of Human Services prior to the issuance of a permit by the Local Plumbing Inspector.

FINAL PLAN: The final drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

FRESHWATER WETLAND: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils and are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels, flowing or seasonal, or include areas of incidental dry land not conforming to the above criteria.

HIGH INTENSITY SOIL SURVEY: A map prepared by a certified Soil Scientist, identifying the soil types down to one-eighth ($\frac{1}{8}$) acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a seasonal high water table or bedrock at that point. Single test pits and their evaluation for suitability for subsurface wastewater disposal systems shall not be considered to constitute high intensity surveys.

NET RESIDENTIAL ACREAGE: The total acreage available for the subdivision as shown on the proposed subdivision plan minus the area for streets or access and the areas unsuitable for development. (Section 12.8)

NET RESIDENTIAL DENSITY: The average number of dwelling units per residential acre.

OPEN SPACE: Undeveloped natural, wooded or unwooded land.

PRELIMINARY PLAN: The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Board for its consideration.

PROFESSIONAL ENGINEER: An engineer registered in the state of Maine.

PUBLIC WATER SYSTEM: A water supply system that provides water to at least fifteen service connections or water to at least 25 individuals daily for at least thirty days a year whether owned by a town, water district, private entity or individual.(Note: Any such system is required to have a license from the Department of Human Services.)

RECORDING PLAN: An original of the paper and mylar versions of the final plan suitable for recording at the Registry of Deeds and which shows only information relevant to the transfer of

an interest in the property.

RESERVED AFFORDABLE HOUSING: Affordable housing restricted by means of deed covenants, financing restrictions or other binding, long term methods to occupancy by households making 80% of the area median household income.

ROAD: See the definition for streets or roads.

SIGHT DISTANCE: The length of unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used herein as a reference for unobstructed road visibility.

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

STREET OR ROAD: Public and private ways used for vehicular access other than driveways.

ARTERIALS: Such roads connect major areas of settlement and are designed for high speed travel. There are no arterials in Castine.

COLLECTORS: These roads handle internal traffic movements within a town or between a group of towns and are designed for moderate speed travel. The only collectors in Castine are State Highways, routes 166, 166A and 199.

LOCAL: These are lightly traveled streets whose primary purpose is to serve residential areas. They are designed for slow speed travel and to carry low volumes of traffic short distances.

SUBDIVISION: The division of a tract or parcel of land into three (3) or more lots within any five (5) year period that period begins after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of land into three (3) or more dwelling units within a five (5) year period, the construction or placement of three (3) or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into three (3) or more dwelling units within a five (5) year period; or the division of any existing structure for commercial or industrial use. [\[Am. #1, 05/07/02\]](#)

A. In determining whether a tract or parcel of land is divided into three (3) or more lots, the first dividing of such tract or parcel is considered to create the first two (2) lots and the next dividing of either of the first two (2) lots by whomever accomplished shall be considered to create a 3d lot, unless: [\[Am. #1, 05/07/02\]](#)

1. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider’s own use as a single-family residence that has been the subdivider’s principal

residence for a period of at least five (5) years immediately preceding the second (2nd) division; [\[Am. #1, 05/07/02\]](#)

2. The division is otherwise exempt under this definition.
- B.** The dividing of a tract or parcel of land and the lots so made, which dividing or lots so made are not subject to this subchapter, do not become subject to this subchapter by subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing. [\[Am. #1, 05/07/02\]](#)
- C.** A lot of forty (40) or more acres shall not be counted as a lot except when the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in Title 38 M.R.S.A. § 435 or the Zoning Ordinance. [\[Am. #1, 05/07/02\]](#)
- D1.** A division accomplished by devise does not create a lot or lots for the purpose of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. [\[Am. #1, 05/07/02\]](#)
- D2.** A division accomplished by condemnation does not create a lot or lots for the purpose of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. [\[Am. #1, 05/07/02\]](#)
- D3.** A division accomplished by order of court does not create a lot or lots for the purpose of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. [\[Am. #1, 05/07/02\]](#)
- D4.** A division accomplished by gift to a person related to the donor of an interest in a property held by the donor for a continuous period of five (5) years does not create a lot or lots for the purpose of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph is transferred within five (5) years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this Ordinance. "Person related to the donor" means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood marriage or adoption. A gift under this paragraph can not be given for consideration that is more than one-half (1/2) the assessed value of the real estate. [\[Am. #1, 05/07/02\]](#)
- D5.** A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purpose of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. [\[Am. #1, 05/07/02\]](#)
- D6.** A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot does not create a lot or lots for the purpose of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph is transferred within five (5) years to another

person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this Ordinance. [\[Am. #1, 05/07/02\]](#)

- E.** The division of a tract or parcel of land into three (3) or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision. [\[Am. #1, 05/07/02\]](#)
- F.** In determining the number of dwelling units in a structure, the provisions of this definition regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land. [\[Am. #1, 05/07/02\]](#)
- G.** Notwithstanding the provisions of this definition, leased dwelling units are subject to subdivision review.

SUBDIVISION, MAJOR: Any subdivision containing more than six (6) lots or dwelling units.

SUBDIVISION, MINOR: Any subdivision containing six (6) lots or dwelling units or less.

TOWN ENGINEER: Any registered professional engineer hired or retained by the town either as staff or as a consultant.

TRACT OR PARCEL OF LAND: All contiguous land in the same ownership whether or not the tract is separated at any point by an intermittent or non-navigable stream, tidal waters where there exists no flow at low tide, or a private road established by the land owners or the abutting land owners. Lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof. Private roads created before September 23, 1971 shall be considered the same as public roads.

USABLE OPEN SPACE: That portion of the common open space, which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space the land must not be poorly drained, have large outcroppings or have any slopes exceeding ten percent (10%).



ARTICLE 4: ADMINISTRATIVE PROCEDURE.

In order to establish an orderly, equitable and efficient procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Board shall have a written agenda prepared by the Code Enforcement Officer, hereinafter called the CEO, after consultation with the Chairman of the Board for each regularly scheduled meeting. The agenda shall be prepared no less than ten (10) days in advance of the meeting, distributed to the Board members, abutters of any proposed subdivision and any applicants appearing on the agenda and posted at the town office. [\[Am. #1, 05/07/02\]](#)

Applicants shall submit a written request to the CEO that they be placed on the Board's agenda at least fourteen (14) days in advance of a scheduled meeting. Applicants who attend a meeting but are not on the agenda may be heard after all agenda items have been completed, but only if a majority of the Board so votes. However, the Board shall take no action on any application not appearing on the agenda. [\[Am. #1, 05/07/02\]](#)



ARTICLE 5: PREAPPLICATION MEETING, SKETCH PLAN & SITE INSPECTION.

5.1 PURPOSE.

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

5.2 PROCEDURE.

- 5.2.1** The applicant shall present the sketch plan and make a verbal presentation regarding the site and the proposed subdivision.
- 5.2.2** Following the applicant's presentation the Board may ask questions and make suggestions to be incorporated by the subdivider into the application.
- 5.2.3** The date of the on-site inspection is selected.

5.3 SUBMISSION.

The preapplication sketch plan shall in a simple, freehand pencil form show the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The sketch plan, which need not be elaborate or professionally done, should be supplemented with general information to indicate the applicable zone, describe or outline the existing conditions of the site and the proposed development. It will be especially helpful to the Board and the subdivider for site conditions such as steep slopes, wet areas, tree and vegetative cover be identified in a general manner. The sketch plan should be superimposed on or accompanied by a copy of the Tax Assessor's Map(s) on which the property is located. The sketch plan shall be accompanied by:

- 5.3.1** A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.
- 5.3.2** A copy of that portion of the Hancock County Soil Survey covering the subdivision showing the outline of the proposed subdivision.
- 5.3.3** Any requests to relax the normal density standards of the Castine Zoning Ordinance in order to create dwelling units that are affordable to low and moderate income residents.

5.4 CONTOUR INTERVAL AND ON-SITE INSPECTION.

Within thirty (30) days after the preapplication meeting the Board shall hold an on-site inspection of the property. The applicant or a designated representative shall be present to answer questions and must have placed "flagging" at the centerline of any proposed

street(s), at the approximate intersections of streets and at lot corners prior to the ~~on-site~~ inspection. The Board shall not conduct on-site inspections when a foot or more of snow is on the ground, when site amenities may be obscured or during inclement weather. During hunting season, the Board may delay on-site inspections for reasons of safety.

At its next scheduled meeting, the Board shall discuss the on-site inspection and record various conditions or features found. The Board shall then notify furnish the applicant in with writing of the highlights of its findings and also the contour interval required on the preliminary plan for a major subdivision or final plan in the case of for a minor subdivision.

5.5 RIGHTS NOT VESTED.

The preapplication meeting, the submittal or review of the sketch plan or the ~~on-the-site~~ inspection shall not be considered the initiation of the review process for the purposes of bringing the Plan under the protection of Title 1 M.R.S.A. § 302.

5.6 ESTABLISHMENT OF A FILE.

Following the preapplication meeting the Board shall establish a permanent file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting(s) and all subsequent applications, correspondence, record of meetings and proceedings shall be maintained in the file.



ARTICLE 6: MINOR SUBDIVISIONS

6.1 GENERAL.

The Board may require where it deems necessary that a Minor Subdivision shall comply with all or any of the submission requirements for a Major Subdivision.

6.2 PROCEDURE.

6.2.1 Within six months after the on-site inspection by the Board, the subdivider shall submit an application to the Board for approval of a final plan. Applications shall be submitted to:

Castine Planning Board
Attn: C.E.O.
P.O. Box 204; 67 Court Street
Castine, ME 04421-0204

or delivered by hand to the town office. Failure to do so may require the resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan plus any recommendations made by the Board. The Board shall not accept or approve final plans not sealed and signed by a professional land surveyor. (30-A M.R.S.A. § 4403 (3) (D))

6.2.2 All applications for final plan approval shall be accompanied by a non-refundable application fee of \$100.00 per lot or dwelling unit, payable by check to the town. The applicant shall also pay a fee of \$100.00 per lot or dwelling unit to be deposited in a special account designated for that subdivision application to be used by the Board for hiring independent consulting and legal services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant and require that an additional \$50.00 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$50.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75%.

6.2.2.1 An additional fee of \$100.00 shall be required to cover the costs of advertising and postal notification of a public hearing.

6.2.2.2 If any balance remains in the account the applicant shall request a refund. In response, the town will provide an accounting of any portions spent and the balance within thirty (30) days.

6.2.3 A single Planning Board "special account" held by the town treasurer shall be used for all escrow fees.

6.2.4 The applicant, or a duly authorized representative, shall attend the meeting of the

Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Board's receipt of the plan until the next meeting, which the applicant attends.

6.2.5 Upon receipt of an application for final plan approval of a Minor Subdivision, the Board shall:

6.2.5.1 Issue a dated receipt to the applicant.

6.2.5.2 Notify by regular mail to the addresses shown on assessment records all owners of abutting property that an application for subdivision approval has been submitted specifying the location of the proposed subdivision and a general description of the project.

6.2.5.3 Notify the Town Clerk of Penobscot if any portion of the subdivision includes or crosses their Town boundary, is in the watershed of their public water supply or can be accessed only by a local road leading from Penobscot.

6.2.6 Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

6.2.7 Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination.

6.2.8 The Board shall hold a public hearing within thirty days of determining it has received a complete application and shall publish a notice of the date, time and place of the hearing in a local newspaper at least two times. The date of the first publication to be at least seven days prior to the hearing. A copy of the notice shall be sent to the applicant by certified mail, return receipt requested or hand-delivered.

6.2.9 Within thirty days following the public hearing the Board shall make findings of fact and conclusions relative to the criteria contained in Title 30-A M.R.S.A. § 4404 and the standards in this Ordinance. If the Board finds that all the criteria of the Statute and the standards of this Ordinance have been met, they shall approve the final plan. If the Board finds that any of the criteria of the Statute or the standards of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The reasons for any denial or conditions shall be stated in the records of the Board.

6.2.10 The Board shall not accept or approve a plan that is not sealed and signed by a professional land surveyor. (30-A M.R.S.A. § 4403 (3) (D))

6.3 SUBMISSION.

Minor Subdivision plans shall consist of two reproducible, stable based transparencies (to be recorded at the Registry of Deeds and filed at the town office) and five copies of one or more maps or drawings drawn to a scale of not more than 200 feet to the inch. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. Five copies of all information accompanying the plan shall be submitted. In addition, one copy of the plan(s) reduced to a size of 8 ½ by 11 inches or 11 by 17 inches along with all accompanying information shall be mailed to each Board member by the applicant no less than seven days prior to the meeting. Minor Subdivision applications for approval shall include the following information. The Board may also require additional information to be submitted where it finds necessary to determine whether the criteria of Title 30-A M.R.S.A. § 4404 are met.

6.3.1 Application form.

6.3.2 A location map drawn at a scale adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the town. The location map shall show:

6.3.2.1 existing subdivisions in the proximity of the proposed subdivision;

6.3.2.2 location and names of existing and proposed streets;

6.3.2.3 boundaries and designations of zoning districts; and

6.3.2.4 an outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holding.

6.3.3 Proposed name of the subdivision or identifying title, the name of the town plus the Tax Assessor's Map and Lot numbers.

6.3.4 For condominiums, a copy of the condominium declaration.

6.3.5 For subdivisions involving common road maintenance, a copy of the road association articles of incorporation and by-laws.

6.3.6 A standard boundary survey of the parcel giving complete descriptive data by bearings and distances and certified by a registered land surveyor. (All contiguous land in common ownership must be included.) The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.

6.3.7 A copy of the most recently recorded deed for the parcel indicating interest in the property. A copy of all deed restrictions, easements, rights-of-way or other

encumbrances currently affecting the property.

6.3.8 A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.

6.3.9 Indication of the type of sewage disposal to be used in the subdivision.

6.3.9.1 The Utilities Board will provide a written statement indicating that adequate capacity to collect and treat the waste water is available and shall be provided and approving the design and plans for extensions and connections if sewage disposal is to be accomplished by connection to the public sewer,

6.3.9.2 If a sewage disposal is to be accomplished by subsurface wastewater disposal systems, a map of sites tested and test pit analyses prepared by a licensed site evaluator shall be provided. The map shall indicate all passing or failed test pits dug on the site.

6.3.10 Indication of the type of water supply system(s) to be used in the subdivision.

6.3.10.1 If water is to be supplied by public water supply, a written statement from the Utilities Board shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the design and plans for extensions and connections. A written statement from the Fire Chief stating approval of the location of fire hydrants, if any, shall also be submitted.

6.3.10.2 Since adequate ground water resources to support one and two family homes in both quantity and quality are generally available throughout the town, only a general statement from a well driller or hydrogeologist attesting to an adequate water supply shall be submitted. However, if the subdivision is located near an identified potential source of pollution, the results of a primary inorganic water analysis performed upon a well on the parcel to be subdivided or from wells on adjacent parcels between the parcel to be subdivided and the potential contamination source shall be provided.

6.3.11 The date the Plan was prepared, North arrow and graphic map scale.

6.3.12 The names and addresses of: the owner of record; subdivider; individual or company who prepared the plan; and all adjoining property owners.

6.3.13 A soil survey identifying wetland areas regardless of size.

6.3.14 The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 42 inches in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and any restrictions to be placed

on clearing of existing vegetation.

- 6.3.15** Location of any lots or dwelling units intended for affordable housing for low or moderate income residents, as defined within the Castine Comprehensive Plan, and any subsequent proposed increase in subdivision densities.
- 6.3.16** The location of all rivers, streams and brooks within or adjacent to the proposed subdivision.
- 6.3.17** Contour lines at the interval previously specified by the Board after the on-site inspection (see Article 5) and showing elevations in relation to Mean Sea Level.
- 6.3.18** The location of any zoning boundaries, i.e. Watershed, Resource Protection, Shoreland, effecting the subdivision.
- 6.3.19** The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 6.3.20** The location, names and present widths of existing streets and highways, existing and proposed easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line and boundary line to be readily determined and be reproduced on the ground. These lines shall be tied to reference points previously established.
- 6.3.21** The location of any open space, scenic views, historical or archaeological sites to be preserved and a description of proposed improvements and their future management.
- 6.3.22** All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the town of all public open spaces shown on the plan and copies of agreements or other documents showing the manner in which open spaces to be retained by the subdivider or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the town, written evidence that the town officers are satisfied with the legal sufficiency of the written offer to convey title shall be included. No conveyance can be made unless first approved by the voters at town meeting. (see 8.3.5 below)
- 6.3.23** If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the town's Flood Insurance Rate Map shall be delineated on the plan.
- 6.3.24** A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology shall be submitted when the subdivision is not served by a public sewer and
 - 6.3.24.1** Any part of the subdivision is located over a sand and gravel aquifer as shown

on a map entitled “Hydrogeologic Data for significant Sand and Gravel Aquifers”, by the Maine Geological Survey, current edition; or

- 6.3.24.2** The subdivision has an average density of more than one dwelling unit per 80,000 square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; cluster developments in which the average density is less than one dwelling per 80,000 square feet but the density of the developed portion is more than one dwelling per 80,000 square feet; and proposed use of shared or common subsurface waste water disposal systems. Hydrogeologic assessments shall be conducted in accordance with the provisions of Article 11.

- 6.3.25** Commercial or Industrial Subdivisions shall require a traffic impact analysis.

- 6.3.25.1** The analysis shall contain an estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.

- 6.3.25.2** If 40 or more parking spaces will be provided or the subdivision is projected to generate more than 400 vehicle trips per day, a traffic impact analysis shall be prepared and submitted by a Registered Professional Engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak-hour volume, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site, neighboring streets which may be effected, and recommended improvements to maintain the safe desired level of service on all effected streets.

- 6.3.26** A storm water management plan prepared by a Registered Professional Engineer shall be prepared in accordance with *Urban Hydrology for Small Watersheds, T.R. 55*, current edition, published by the U.S. Soil Conservation Service if the proposed subdivision involves road construction or grading which changes drainage patterns or if the addition of impervious surfaces such as roofs, driveways and streets is more than 10% of the area of the subdivision. The plan shall be reviewed and approved by the Hancock County Soil and Water Conservation District.

- 6.3.27** An erosion and sedimentation control plan shall be prepared in accordance with the *Environmental Quality Handbook*, current edition, published by the Maine Soil and Water Conservation Commission. If street, driveway or house construction will occur on sites with slopes steeper than 10%; the plan shall be reviewed and approved by the Hancock County Soil and Water Conservation District.

- 6.3.28** An archaeological survey by a state certified archaeologist shall be conducted of properties identified by the Maine Historic Preservation Commission or the Castine

Comprehensive Plan as containing historical or archaeological sites.

6.3.29 Indicate areas within or adjacent to the proposed subdivision identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries.

6.3.30 Applicant provides evidence of a financial and technical capacity to complete the project.

6.4 FINAL APPROVAL AND FILING.

6.4.1 No plan shall be approved by the Board as long as the subdivider is in violation of the provisions of a previously approved subdivision plan within the town.

6.4.2 Upon findings of fact and determination that all standards in Title 30-A M.R.S.A. § 4404 and of this Ordinance have been met, and upon voting to approve the subdivision, no fewer than three members of the Board voting in the affirmative, the Board shall sign the final plan. The Board shall specify in writing its finding of facts and reasons for any conditions or denials. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. In accordance with 30-A M.R.S.A. § 4406 (1) (B) a required variance or Title 38 exemption not recorded in the Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Board shall cause the subdivision to become null and void.



ARTICLE 7: PRELIMINARY PLAN FOR MAJOR SUBDIVISIONS

7.1 PROCEDURE.

7.1.1 An application for approval of a preliminary plan shall be submitted by the subdivider within six months after the on-site inspection by the Board and at least 10 days prior to a scheduled meeting of the Board. Applications shall be submitted to

Castine Planning Board
Attn: C.E.O.
P.O. Box 204
67 Court Street
Castine, ME 04421-0204

or delivered by hand to the Code Enforcement Officer in the town office. Failure to do so may require the resubmission of the sketch plan to the Board. The Preliminary Plan shall approximate the layout shown on the sketch plan plus any recommendations made by the Board.

7.1.2 All applications for preliminary plan approval shall be accompanied by a non-refundable application fee of \$100.00 per lot or dwelling unit, payable by check to the town. In addition, the applicant shall pay a fee of \$100.00 per lot or dwelling unit to be deposited in a special account designated for that subdivision application to be used by the Board for hiring independent consulting and legal services to review the application. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant and require that an additional \$50.00 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$50.00 per lot or dwelling unit be deposited by the applicant whenever the balance of the account is drawn down by 75%.

7.1.2.1 An additional fee of \$100.00 shall be required to cover the costs of advertising and postal notification of a public hearing.

7.1.2.2 If any balance remains in the account the applicant shall request a refund. In response, the town will provide an accounting of any portions spent and refund the balance within thirty (30) days.

7.1.3 A single Planning Board "special account" held by the town treasurer shall be used for all escrow accounts.

7.1.4 Upon receipt of an application for preliminary plan approval of a major subdivision, the Board shall:

7.1.4.1 Issue a dated receipt to the applicant.

- 7.1.4.2** Notify in writing all owners of abutting property that an application for subdivision approval has been submitted specifying the location of the proposed subdivision and a general description of the project.
- 7.1.4.3** Notify the Penobscot Town Clerk if any portion of the subdivision includes or crosses their town boundary, is in the watershed of their public water supply or can be accessed only by a local road leading from Penobscot.
- 7.1.5** The applicant, or a duly authorized representative, shall attend the meeting of the Board to present the preliminary plan application.
- 7.1.6** Within thirty days of the receipt of the preliminary plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- 7.1.7** Upon determination that a complete application has been submitted for review, the Board shall issue a dated receipt to the subdivider.
- 7.1.8** The Board shall hold a public hearing within thirty days of determining it has received a complete application and shall publish a notice of the date, time and place of the hearing in a local newspaper at least two times. The date of the first publication shall be at least seven days prior to the hearing. A copy of the notice shall be sent to the applicant by certified mail, return receipt requested, or hand delivered.
- 7.1.9** Within thirty days from the public hearing, or within another time limit mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application and approve, approve with conditions or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any denial or conditions.
- 7.1.10** When granting approval of the preliminary plan the Board shall state the conditions of such approval, if any, with respect to:
 - 7.1.10.1** the specific changes which it will require in the final plan;
 - 7.1.10.2** the character and extent of the required improvements for which waivers may have been requested and the Board finds may be waived without jeopardy to the public health, safety and general welfare;
 - 7.1.10.3** the construction items and installations for which cost estimates and performance guarantees shall be required as prerequisite to the approval of the final plan; and
 - 7.1.10.4** variances requested from the Board of Appeals.

7.1.11 Approval of a preliminary plan shall not constitute approval of the Final Plan. Rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted by the applicant for approval by the Board upon fulfillment of the requirements of this ordinance and the conditions of the preliminary approval, if any. Prior to the approval of the final plan the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

7.2 SUBMISSION.

The plan shall be submitted in three copies of one or more maps or drawings, which may be printed or reproduced on paper with all the dimensions shown in feet. The preliminary plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres shall be drawn to a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. In addition, one copy of the preliminary plan reduced to a size of 8 ½ by 11 inches or 11 by 17 inches and all accompanying information shall be mailed to each Board member no less than seven days prior to the meeting. The application for preliminary plan approval shall include the following information. The Board may also require additional information to be submitted where it finds necessary to determine whether the criteria of Title 30-A M.R.S.A. § 4404 are met.

7.2.1 Application form.

7.2.2 A location map drawn at a scale adequate to show the relationship of the proposed subdivision to the adjacent properties and to allow the Board to locate the subdivision within the town. The location map shall show:

7.2.2.1 Existing subdivisions in the proximity of the proposed subdivision.

7.2.2.2 Location and names of existing and proposed streets.

7.2.2.3 Boundaries and designations of zoning districts.

7.2.2.4 An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.

7.2.3 Proposed name of the subdivision or identifying title, the name of the town in which it is located, plus the Tax Assessor's Map and Lot numbers.

7.2.4 For subdivisions involving common road maintenance, copy of the road association articles of incorporation.

7.2.5 Copy of the condominium declaration.

- 7.2.6** A standard boundary survey of the parcel giving complete descriptive data by bearings and distances and certified by a registered land surveyor. (All contiguous land in common ownership must be included.) The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.
- 7.2.7** A copy of the most recently recorded deed for the parcel indicating interest in the property. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
- 7.2.8** A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- 7.2.9** Indication of the type of sewage disposal to be used in the subdivision.
- 7.2.9.1** The Utilities Board must indicate in writing that adequate capacity to collect and treat the waste water is available and shall be provided if sewage disposal is to be accomplished by connection to the public sewer plus a statement approving the sewer disposal design and plans for extensions and connections.
- 7.2.9.2** A test pit analyses and a map prepared by a licensed site evaluator or certified soil scientist shall be provided if sewage disposal is to be accomplished by subsurface wastewater disposal systems. The map shall show the location all test pits dug on the site.
- 7.2.10** Indication of the type of water supply system(s) to be used in the subdivision.
- 7.2.10.1** When water is to be supplied by public water supply, a written statement from the Utilities Board shall be submitted indicating there is adequate supply and pressure for the subdivision and approving the design and plans for extensions and connections. A written statement from the Fire Chief stating approval of the location of fire hydrants, if any, shall also be submitted.
- 7.2.10.2** When water is to be supplied by private wells include a statement from a Certified Hydrogeologist attesting to the adequacy of the water supply. If the subdivision is located near an identified potential source of pollution, results of a primary inorganic water analysis performed upon a well on the parcel to be subdivided or from wells on adjacent parcels between the parcel to be subdivided and the potential contamination source shall be provided along with a statement from a Certified Hydrogeologist indicating that no danger of contamination from the potential source of pollution exists.
- 7.2.10.3** When a proposed subdivision is to be served by a private central water system, contains multifamily buildings or is in close proximity to other systems in the subdivision and in the same ownership, include a statement approving the design from the Maine Department of Human Services' Drinking Water Pro-

gram.

- 7.2.11** The date the plan was prepared, North arrow and graphic map scale.
- 7.2.12** Location of any lots or dwelling units intended for affordable housing for low or moderate income residents, as defined within the Castine Comprehensive Plan, and any subsequent proposed increase in subdivision densities.
- 7.2.13** The names and addresses of: the owner of record; subdivider; individual or company who prepared the plan and all adjoining property owners.
- 7.2.14** A high intensity soil survey by a Registered Soil Scientist. Wetland areas shall be identified on the survey regardless of size.
- 7.2.15** The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 42 inches in diameter at breast height that will be affected by the construction shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted.
- 7.2.16** The location of all rivers, streams and brooks within or adjacent to the proposed subdivision.
- 7.2.17** Contour lines at the interval previously specified by the Board after the on-site inspection (see Article 5) and showing elevations in relation to Mean Sea Level.
- 7.2.18** The zoning district in which the proposed subdivision is located and the location of any zoning boundaries, i.e. Watershed, Resource Protection, Shoreland, effecting the subdivision.
- 7.2.19** The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- 7.2.20** The location, names and present widths of existing streets and highways, existing and proposed easements, building lines, parks and other open space on or adjacent to the subdivision.
- 7.2.21** The width and location of any street, public improvements or open space shown by the Official Map and Comprehensive Plan, if any, within the subdivision.
- 7.2.22** The proposed lot lines with approximate dimensions and lot areas.
- 7.2.23** All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

- 7.2.24** The location of any open space, scenic views, historic or archaeological sites to be preserved and a description of proposed ownership, improvement and management.
- 7.2.25** The area on each lot where existing forest cover will be permitted to be removed and converted to lawn or other cover.
- 7.2.26** If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard area and the 100-year flood elevation as depicted on the town's Flood Insurance Rate Map shall be delineated on the plan.
- 7.2.27** A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer experienced in hydrogeology shall be submitted when the subdivision is not served by a public sewer and
- 7.2.27.1** any part of the subdivision is located over a sand and gravel aquifer as shown on a map entitled "Hydrogeologic Data for significant Sand and Gravel Aquifers", by the Maine Geological Survey, 1985; or
- 7.2.27.2** the subdivision has an average density of more than one dwelling unit per 80,000 square feet.

The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils; cluster developments in which the average density is less than one dwelling unit per 80,000 square feet but the density of the developed portion is more than one dwelling unit per 80,000 square feet; and a proposed use of shared or common subsurface wastewater disposal systems. Hydrogeologic assessments shall be conducted in accordance with the provisions of Article 11.

- 7.2.28** An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, current edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- 7.2.29** Commercial or industrial subdivisions shall require a traffic impact analysis.
- 7.2.29.1** The analysis shall contain an estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours.
- 7.2.29.2** If 40 or more parking spaces will be provided or the subdivision is projected to generate more than 400 vehicle trips per day, a traffic impact analysis shall be prepared and submitted by a registered professional engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak-hour volume, access conditions at the site, distribution of

traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site, neighboring streets which may be effected, and recommended improvements to maintain the safe desired level of service on all effected streets.

- 7.2.30** Indicate areas within or adjacent to the proposed subdivision identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan
- 7.2.31** An erosion and sedimentation control plan shall be prepared in accordance with the *Environmental Quality Handbook*, current edition, published by the Maine Soil and Water Conservation Commission if street, driveway or house construction will occur on sites with slopes steeper than 10%. The plan shall be reviewed and approved by the Hancock County Soil and Water Conservation District.
- 7.2.32** A storm water management plan shall be prepared by a registered professional engineer in accordance with *Urban Hydrology for Small Watersheds, T.R. 55*, current edition, published by the U.S. Soil Conservation Service if the proposed subdivision involves road construction or grading which changes drainage patterns or if the addition of impervious surfaces such as roofs, driveways and streets is more than 10% of the area of the subdivision. The plan shall be reviewed and approved by the Hancock County Soil and Water Conservation District.



ARTICLE 8: FINAL PLAN FOR MAJOR SUBDIVISIONS

8.1 PROCEDURE.

- 8.1.1** Within six months after the approval of the preliminary plan, the subdivider shall submit an application for approval of the final plan ten days prior to a scheduled meeting of the Board. Application shall be submitted to

Castine Planning Board
Attn: C.E.O.
P.O. Box 204
67 Court Street
Castine, ME 04421-0204

or delivered by hand to the Code Enforcement Officer at the town office. If the application for the final plan approval is not submitted within six months after the preliminary plan approval, the Board shall require the resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan plus any changes required by the Board. The Board shall not accept or approve final plans that are not sealed and signed by a professional land surveyor. (30-A M.R.S.A. §4403)

If the applicant cannot submit the final plan within six months due to delays caused by other regulatory bodies, or for other good reason, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that: the applicant has made due progress in preparation of the final plan and in pursuing approval of the Plans before other agencies; and that the town ordinances or other regulations that may impact on the proposed subdivision have not been amended.

- 8.1.2** All applications for final plan approval shall be accompanied by a non-refundable application fee of \$100.00 per lot or dwelling unit, payable by check to the town. In addition, the applicant shall pay a fee of \$100.00 per lot or dwelling unit to be deposited in a special account designated for that subdivision application to be used by the Board for hiring independent consulting and legal services to review the application if necessary. If the balance in this special account shall be drawn down by 75%, the Board shall notify the applicant and require that an additional \$50.00 per lot or dwelling unit be deposited by the applicant. The Board shall continue to notify the applicant and require an additional \$50.00 per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by 75%.

- 8.1.2.1** An additional fee of \$100.00 shall be required to cover the costs of advertising and postal notification of a public hearing.

- 8.1.2.2** If any balance remains in the account the applicant shall request a refund. In

response, the town will provide an accounting of any portions spent and refund the balance within thirty (30) days.

- 8.1.3** A single Planning Board "special account" held by the town treasurer shall be used for all escrow fees.
- 8.1.4** Prior to submittal of the final plan application, the applicant shall obtain the following approvals in writing where applicable.
 - 8.1.4.1** Maine Department of Environmental Protection under the Site Location of Development Act, Natural Resources Protection Act or if a Wastewater Discharge License is needed.
 - 8.1.4.2** Maine Department of Human Services if the subdivider proposes to provide a public water system or an engineered subsurface wastewater disposal system(s) is to be used.
 - 8.1.4.3** Maine Historic Preservation Commission for historic or archaeological sites or areas adjacent to historic or archaeological sites listed or eligible to be listed in the Castine Comprehensive Plan.
 - 8.1.4.4** U.S. Army Corps of Engineers if a permit under Section 404 of the Clean Water Act is required.
 - 8.1.4.5** Castine Historical Commission for development in the Historic District(s).
 - 8.1.4.6** Castine Utilities Board for proposed connections to public water or sewage lines.
 - 8.1.4.7** Town Manager of the town of Castine indicating that the applicant has fulfilled the provision of the Castine Assessment of Impact Fee Ordinance.
- 8.1.5** Upon receiving an application for final plan approval of a Major Subdivision, the Board shall issue a dated receipt to the applicant.
- 8.1.6** Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.
- 8.1.7** Upon determination that a complete application has been submitted for review the Board shall
 - 8.1.7.1** Issue a dated receipt to the subdivider.
 - 8.1.7.2** Notify by regular mail to the address shown on assessment records all owners of

abutting property that an application for subdivision approval has been submitted specifying the location of the proposed subdivision and a general description of the project.

- 8.1.7.3** Notify the Penobscot Town clerk if any portion of the subdivision includes or crosses their Town boundary, is in the watershed of their public water supply or can be accessed only by a local road leading from Penobscot.
- 8.1.8** The Board shall hold a public hearing within thirty days of determining it has received a complete application and shall publish a notice of the date, time and place of the hearing in a local newspaper at least two times. The date of the first publication shall be at least seven days before the hearing. In addition, the notice of the hearing shall also be posted at Emerson Hall and two other prominent places in the town at least seven days before the hearing.
- 8.1.9** The subdivider or a duly authorized representative shall attend the meeting of the Board to discuss the final plan and answer the questions of the Board and the public present at the hearing.
- 8.1.10** The Board shall notify the Selectmen, School Superintendent, Fire Chief and Chairmen of the Utilities Board and Castine Historic Commission of the proposed subdivision and number of dwelling units, approximate square footage and number of bedrooms of each dwelling unit, proposed. Other information, i.e. length of roadways, the size and construction characteristics of any multi-family, commercial, industrial or institutional buildings and the time, date and place of the public hearing shall be furnished when deemed appropriate by the Board. The Board shall request that these officials comment upon the adequacy of their department's existing capital facilities (personnel are not to be considered) to service the proposed subdivision.
- 8.1.11** The subdivider shall meet the performance guarantee requirements of Article 13.
- 8.1.12** Within thirty days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A. §4404 and the standards of this Ordinance. If the Board finds that all the criteria of the Statute and the standards of this Ordinance have been met, the Board shall approve the Final plan. If the Board finds that any of the criteria of the Statute or the standards of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivider. The reasons for a denial or any conditions shall be stated in the records of the Board.

8.2 SUBMISSION.

The final plan shall consist of two reproducible, stable based transparencies (One to be

recorded at the Registry of Deeds and the other to be filled at the town) and five copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn to a scale of not more than 200 feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size and shall have a margin of 2 inches outside of the border lines on the left side for binding and one inch margin outside the border along the remaining side. Space shall be reserved on the plan for endorsement by the Board. Five copies of all information accompanying the plan shall be submitted. Also, one copy of the plan(s) reduced to a size of 8 ½ by 11 inches or 11 by 17 inches along with all accompanying information shall be mailed to each Board member by the applicant no less than seven days prior to the meeting. The final plan shall include or be accompanied by the following information.

- 8.2.1** Proposed name of the subdivision and the name of the town in which it is located plus the assessor's map and lot numbers.
- 8.2.2** The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses (year round and seasonal) and other essential existing physical features.
- 8.2.3** Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to a public sewer, a written statement from the Utilities Board indicating the Utilities Board has reviewed and approved the sewage design shall be submitted.
- 8.2.4** Indication of the type of water supply system(s) to be used in the subdivision.
 - 8.2.4.1** The Utilities Board shall provide a written statement indicating it has reviewed and approved the water system design if water is to be supplied by an existing public water supply. A written statement from the Fire Chief shall also be provided approving all hydrant locations and other fire protection systems.
 - 8.2.4.2** A written statement from a certified hydrogeologist attesting to the adequacy of the water supply if water is to be supplied by private wells shall be included. If the subdivision is located near an identified potential source of pollution, results of a primary inorganic water analysis performed upon a well on the parcel to be subdivided or from wells on adjacent parcels between the parcel to be subdivided and the potential contamination source shall be provided by the certified hydrogeologist along with a statement evaluating the danger of contamination from the potential source of pollution.
 - 8.2.4.3** When a proposed subdivision is to be served by a private central water system, contains multifamily buildings, or is in close proximity to other systems in the subdivision and in the same ownership, include a written statement approving the design from the Maine Department of Human Services' Drinking Water Program.

- 8.2.5** The date the plan was prepared, North point, graphic map scale.
- 8.2.6** The names and addresses of the owner of record, subdivider and the individual or firm who prepared the plan.
- 8.2.7** The location of any zoning boundaries affecting the subdivision.
- 8.2.8** If different from those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
- 8.2.9** A copy of the deed restrictions applicable to the sale or resale of dwellings for affordable housing units, condominium declarations and road association by-laws.
- 8.2.10** The location and size of existing and proposed sewers, water mains, culverts and drainage ways on or adjacent to the property to be subdivided.
- 8.2.11** The location, names and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision shall be indicated. The plan shall contain sufficient detail to allow the location, bearing and length of every street line, lot line and boundary line to be readily determined and identified on the ground. These lines shall be tied to reference points previously established. The location, bearing and length of street lines, lot lines and parcel boundary lines shall have been certified by a registered land surveyor.
- 8.2.12** Indication that street plans meet the requirements of Article 12.
- 8.2.13** A written approval by the Hancock County Soil and Water Conservation District of an erosion and sedimentation control plan prepared in accordance with the Environmental Quality Handbook, current edition, published by the Maine Soil and Water Conservation Commission, if required when street, driveway or house construction will occur on sites with slopes steeper than 10%.
- 8.2.14** A written approval of a storm water management plan from the Hancock County Soil and Water Conservation District when required by **§7.3.D (27)** of this Ordinance.
- 8.2.15** All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the town of all public ways and open spaces shown on the plan and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owner(s) are to be maintained shall be submitted. If proposed streets and/or open spaces or other land are to be offered to the town, written evidence the town Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included. No conveyance can be made unless first approved by the voters at a town meeting.

- 8.2.16** The boundaries of any flood hazard areas and the 100 year flood elevation as depicted on the Castine Flood Hazard Boundary Map, shall be delineated on the plan.
- 8.2.17** A list of construction items, with cost estimates, that will be completed by the developer prior to the sale of lots and evidence that the subdivider has the financial commitments or resources to cover these costs.
- 8.2.18** Written evidence from the town manager that the subdivider has fulfilled all obligations of the Assessment of Impact Fee Ordinance.
- 8.2.19** The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

8.3 FINAL APPROVAL AND FILING.

- 8.3.1** No plan shall be approved by the Board if the subdivider is in violation of the provisions of a previously approved plan within the town.
- 8.3.2** Upon findings of fact and determination that all standards in Title 30-A M.R.S.A. § 4404 and of this Ordinance have been met, and upon voting to approve the subdivision, no fewer than three members of the Board voting in the affirmative, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denials. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.
- 8.3.3** At the time the Board grants final plan approval, if any town officer notified of the proposed subdivision informs the Board that the town does not have adequate facilities to serve the subdivision, the Board shall require the plan to be divided into two or more sections or phases subject to any conditions the Board deems necessary to allow the orderly planning, financing and provision of public services to the subdivision.
- 8.3.4** No erasures, changes, modifications or revisions shall be made in any final plan after approval has been given by the Board and endorsement in writing on the plan unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A. § 4404 and the standards of this Ordinance. In the event a plan is recorded without complying with this requirement, it shall be considered null and void and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- 8.3.5** The approval by the Board of a subdivision plan shall not be deemed to constitute or

be evidence of acceptance by the town of any street, easement or other open space shown on the plan. When a park, playground or other recreation area shall have been shown on the plan to be dedicated to the town, approval of the plan shall not constitute an acceptance by the town of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the town and the applicant covering future deed and title dedication and provisions for the cost of grading, development, equipment and maintenance of any such dedicated area.

- 8.3.6** Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five (5) years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.



ARTICLE 9: REVISIONS TO APPROVED PLANS.

9.1 PROCEDURE.

At least ten days prior to a scheduled meeting of the Board an applicant for a revision to a previously approved plan shall request to be placed on the Board's agenda. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval shall be followed. If the revision involves only modifications of the approved plan, without creation of additional lots or dwelling units, the procedures for final plan approval shall be followed. The requirements of a revised plan shall apply into the indefinite future.

9.2 SUBMISSION.

The applicant shall submit a copy of the approved plan as well as three copies of the proposed revisions. The application shall also contain enough supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this Ordinance and the state statute. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the book and page or cabinet and sheet upon which the original plan is recorded at the Registry of Deeds.

9.3 SCOPE OF REVIEW.

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



ARTICLE 10: INSPECTION AND ENFORCEMENT.

10.1 INSPECTION OF REQUIRED IMPROVEMENTS.

10.1.1 At least five days prior to commencing construction of required improvements, the subdivider or builder shall

10.1.1.1 Notify the Code Enforcement Officer (CEO) in writing of the time he proposes to commence construction of such improvements so inspections can be made. The purpose of the inspections is to assure that all town specifications, requirements and conditions are met and to assure the satisfactory completion of improvements and utilities required by the Board. The improvements that shall be inspected during the construction process include, but are not limited to, road or street construction, installation of sewer and water pipes, storm water management structures and facilities, and erosion and sedimentation control measures. Inspection of the construction, especially road and street construction and construction of the storm water management system(s), shall be conducted by a registered professional engineer designated by the Board.

10.1.1.2 Deposit with the town manager a check for the amount of 2% of the estimated costs of the required improvements to pay for all costs of inspection. If funds remain after satisfactory completion of construction and cleanup, the applicant shall request refund. In response the town will provide an accounting of any portion spent and refund the balance within thirty (30) days. Whenever the inspection account is drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of required improvements.

10.1.1.3 A single Planning Board "special account" held by the town treasurer shall be used for all escrow fees.

10.1.2 The inspector shall make frequent inspections and if potential problems are found, shall notify the CEO, subdivider and builder. The CEO shall notify the subdivider and builder, registered mail with return receipt, of the problems or noncompliance; the steps that must be taken to correct them; a time frame for taking corrective action; and shall issue stop work orders when deemed necessary. The selectmen shall take any legal or equitable steps necessary to preserve the town's rights.

10.1.3 If at any time before or during the construction of the required improvements it is necessary or desirable to modify them, the inspector is authorized to approve minor modifications due to unforeseen circumstances, i.e. encountering bedrock or natural springs. The inspector shall issue any approval under this section in writing and shall transmit a copy of this approval to the Board. Revised plans shall be filed with the Board. For major modifications such as relocations of rights-of-way, property boundaries or changes of grade by more than 1%. The subdivider shall obtain permission to modify the plan from the Board.

10.1.4 At the close of each construction season, the town manager shall, at the expense of the subdivider or builder, have the site inspected by a registered professional engineer. Before December 1, the inspector shall submit a report to the Board indicating whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed and appear to be adequate. The report shall discuss any problems encountered and contain recommendations to correct those problems.

10.1.5 Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a registered land surveyor stating that all monumentation shown on the plan has been installed.

10.1.6 Upon completion of street construction and prior to a vote by the town selectmen to submit a proposed public way to a town meeting, a written certification signed by a registered professional engineer shall be submitted to the selectmen at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of this Ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As Built" plans of streets and all utilities shall be submitted to the town manager.

10.1.7 The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the town or their control is placed with a lot owners association.

10.2 VIOLATIONS AND ENFORCEMENT.

10.2.1 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 conformance with this Ordinance.

10.2.2 A person shall not convey, offer or agree to convey, sell, lease, develop or build upon any land or dwelling unit in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

10.2.3 No person shall sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot. This restriction shall apply to new lots created within the five year period following the approval of the original plan. This restriction does not apply to areas marked as "reserved" on the plan.

10.2.4 No public utility, water or sewer district, Utilities Board 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.

10.2.5 Development of a subdivision without Board approval shall be a violation of this Ordinance. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided for in this Ordinance and recorded in the Registry of Deeds.

10.2.6 No lot in a subdivision may be sold, leased or otherwise conveyed before the street upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with this Ordinance.

10.2.7 Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A. §4452.

10.2.8 The CEO shall enforce the provisions of this ordinance.

10.2.8.1 The CEO shall conduct on-site inspections to insure compliance with this ordinance; all applicable laws and regulations; the conditions and provisions of approved subdivision plans; and investigate all complaints of alleged violations.

10.2.8.2 If the CEO finds that any provision of the ordinance is being violated he shall notify by certified mail, return receipt requested, the person responsible for such violation the nature of the violation and ordering the action necessary to correct it. Examples of such action are discontinuance of illegal use of land, buildings or structures or of work being done, removal of illegal buildings or structures and the abatement of nuisances. A copy of such notices shall be submitted to the selectmen and maintained as a permanent record.

10.2.8.3 The CEO shall keep as a permanent file a complete record of all essential transactions required by or related to this ordinance including applications submitted, plan approval or denial, revocation actions, court actions, violations investigated, records of meetings and public hearings, monies collected and refunded and all similar matters as may be deemed prudent by the Board or CEO.

10.2.9 If action taken by the CEO does not result in the correction or abatement of the violation or nuisance condition, the town selectmen upon notice by the CEO and after consultation with the Board are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and imposition of fines, that may be appropriate or necessary to enforce the provisions of this ordinance in the name of the town. The selectmen or their authorized agent are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this ordinance and recovering fines, penalties and costs without court action.

10.2.9.1 The minimum penalty for starting construction or undertaking a land use

activity without a required permit is \$100.00 and the maximum is \$2,500.00.

10.2.9.2 The minimum penalty for a specific violation is \$100.00 and the maximum is \$2,500.00.

10.2.9.3 The violator may be ordered to correct or abate the violations.

10.2.9.4 If a finding that the violation was willful is made, the violator shall be ordered to correct or abate the violation unless the abatement or correction will:

10.2.9.4.1 result in a threat or hazard to public health or safety;

10.2.9.4.2 result in substantial environmental damage; or

10.2.9.4.3 cause a substantial injustice.

10.2.9.5 If any court action is required and the town prevails it shall be awarded reasonable legal fees, expert witness fees and costs unless the court finds that special circumstances make the awarding of these fees and costs unjust.

10.2.9.6 The maximum penalty may exceed \$2,500.00 but shall not exceed \$25,000.00 when it is shown that there has been a previous conviction of the same violator within two years for a similar violation.



ARTICLE 11: PERFORMANCE STANDARDS.

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the Subdivision Statute (30-A M.R.S.A. § 4404). In reviewing a proposed subdivision, the Board shall review the application for conformance with the following performance standards and make findings that each has been met before approving a final plan. Compliance with the design guidelines of Article 12 shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines of Article 12 may be considered but the applicant shall provide clear and convincing evidence that the proposed design will meet all performance standards and the statutory criteria. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have or will be met.

11.1 POLLUTION.

11.1.1 The proposed subdivision shall not discharge wastewater to any water body without a license from the Maine Department of Environmental Protection.

11.1.2 Storm water shall be processed by treatment or use of interceptors to remove oil, grease and sediment prior to discharge into any surface water body.

11.2 SUFFICIENT WATER.

11.2.1 Water Supply.

11.2.1.1 Any subdivision within 1,000 feet of an existing public water supply line shall connect to that system. Any subdivision within an area designated for a future connection to a public water supply service by the Comprehensive Plan within five years from the date of the final plan for the subdivision shall make provision for connection to the public system. When the public water supply service will not be available at the time of construction of the subdivision, a “capped system” shall be installed within the subdivision to allow future connections when service becomes available without the need for excavation within the right of way of any street within the subdivision.

11.2.1.2 When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants and valves, shall be installed at the expense of the subdivider. The size and locations of mains, gate valves, hydrants, service connections and the connection to the public water supply system shall be reviewed and approved by the Utilities Board and the Fire Chief.

11.2.1.3 When a proposed subdivision is not within the area designated for public water supply service in the Comprehensive Plan or is beyond 1,000 feet from an existing water supply line, water supply shall be from individual wells or a

private, central subdivision community water system.

- 11.2.1.3.1** Individual wells shall be sited and constructed to prevent infiltration of surface water, contamination from subsurface wastewater disposal systems and from other sources of potential contamination. (See § 12.1.1.)
- 11.2.1.3.2** Lot design shall permit placement of wells; handling of storm water; and for subsurface wastewater disposal areas and reserve sites for subsurface water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.
- 11.2.1.3.3** If a central water supply system is provided by the subdivider, the location and protection of the source; and the design, construction and operation of the system shall conform to the standards of the *Maine Rules Relating to Drinking Water* (10-144A C.M.R. 231). The Comprehensive Planning Committee shall be notified by the Board of the location of a proposed community central water supply system for inclusion into the town's well head protection program.
- 11.2.1.3.4** In areas where the Comprehensive Plan has indicated the need for additional water storage capacity for fire fighting purposes, the subdivider shall provide adequate water storage facilities. These facilities may be ponds with dry hydrants, underground or above ground storage reservoirs or another method acceptable to the Fire Chief. An easement shall be granted to the town granting access to and maintenance of dry hydrants or reservoirs where necessary. The Board may waive the requirement for water storage only if convincing evidence is submitted that the soil types in the subdivision will not permit the construction of ponds or the installation of reservoirs and the Fire Chief has indicated in writing that alternate methods of fire protection are available and adequate.

11.2.2 Water quality.

Water supplies shall meet the primary drinking water standards contained in the *Maine Rules Relating to Drinking Water*. If the existing quality of water is such that it contains contaminants in excess of the secondary drinking water standards in the *Maine Rules Relating to Drinking Water*, that fact shall be disclosed by a note on the plan to be recorded in the Registry of Deeds.

11.3 IMPACT ON EXISTING WATER SUPPLIES.

In meeting the standards of Section 11.2.1, a proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the Utility Board beyond the capacity of those system components considering improvements planned to be in place prior to the occupancy of the subdivision. The subdivider shall be responsible for paying the costs of system improvements necessary to the town of Castine's Utility

Board system improvement plan as necessary to alleviate existing deficiencies in accordance with the Assessment of Impact Fees Ordinance.

11.4 SOIL EROSION.

- 11.4.1** The proposed subdivision shall prevent eroding soil from entering water bodies, freshwater wetlands and adjacent properties.
- 11.4.2** The procedures outlined in the erosion and sedimentation control plan shall be implemented during site preparation, construction and clean-up.
- 11.4.3** Topsoil shall not be removed from the subdivision or from a lot except when required for removal of surplus topsoil from roads, parking areas, driveways and home sites.

11.5 TRAFFIC CONDITIONS.

- 11.5.1** In general, provision shall be made for vehicular access to the subdivision and traffic circulation within the subdivision so as to
 - 11.5.1.1** safeguard against hazards to pedestrians and traffic within the subdivision and on existing streets;
 - 11.5.1.2** avoid traffic congestion on any street; and
 - 11.5.1.3** provide safe and convenient circulation within the subdivision and existing streets.
- 11.5.2** Specifically, access and circulation shall conform to the following standards.
 - 11.5.2.1** Vehicular access to the subdivision shall be arranged to minimize traffic use of existing streets which have been classified as residential access streets by the comprehensive plan.
 - 11.5.2.2** No unreasonable congestion shall be created in neighboring streets and intersections because of the subdivision.
 - 11.5.2.3** Where necessary to safeguard against hazards to pedestrians, bicyclists and other traffic or to avoid traffic congestion, the subdivider shall provide turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways, traffic signal signs and lights, and other traffic controls within existing public streets.
 - 11.5.2.4** Accessways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. An analysis to determine the need for and capacity of a left-turn storage lane shall be provided.

11.5.2.5 Interconnection of neighboring subdivisions shall be coordinated when topographic and other conditions allow through street connections of adjoining lots of similar existing or potential use within areas of the town designated as growth areas; or in non-residential subdivisions when such access will

11.5.2.5.1 facilitate the provision of fire protection services as approved by the Fire Chief; or

11.5.2.5.2 enable the public to travel between two existing or potential uses without the need to travel upon a public street.

11.5.2.6 Street Names, Signs and Lighting.

Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate nor have a phonetic resemblance to the names of existing streets within the town and shall be subject to the approval of the Board. No street name shall be the common given name of a person. Street lighting and all traffic safety and control signs shall be installed as directed by the Board at the expense of the subdivider.

11.5.2.7 Cleanup.

Following street construction, the subdivider shall accomplish a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, that site shall be indicated on the plan and suitably covered with fill and topsoil, limed, fertilized and seeded.

11.6 SEWAGE DISPOSAL.

11.6.1 Public system.

11.6.1.1 Any subdivision within 1000 feet of a town sewer line shall connect to that system. Any subdivision within an area designated for a future connection to a public sewer service by the Comprehensive Plan within five years from the date of the final plan shall make provision for connection to the public system. When the public sewer service will not be available at the time of construction of the subdivision, a “capped system” and valving shall be installed within the subdivision to allow for future connections when service becomes available without the need for excavation within the right of way of any street within the subdivision.

11.6.1.2 When a subdivision is proposed to be served by the town sewer system, the complete collection system within the subdivision, including manholes and pump stations shall be installed at the expense of the subdivider.

11.6.1.3 The Utilities Board shall certify in writing that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system capability or improvements planned to be completed prior to the construction of the subdivision.

11.6.1.4 The Utilities Board shall review and approve the construction drawings for the sewerage system in accordance with town regulations. The size and location of laterals, collectors, interceptors, man-holes, mains and pump stations shall be approved in writing by the Utilities Board.

11.6.1.5 In meeting the standards of Section 11.6.1, a proposed subdivision shall not generate a demand on the collection system, treatment facilities or distribution system of the Utility Board beyond the capacity of those system components considering improvements planned to be in place prior to the occupancy of the subdivision. The subdivider shall be responsible for paying the costs of system improvements necessary to alleviate existing deficiencies in accordance with the town of Castine's Capital Improvement Plan and Assessment of Impact Fees Ordinance.

11.6.2 Private systems.

11.6.2.1 When a proposed subdivision is not within the area designated for public sewer service in the Comprehensive Plan or is beyond 1000 feet from an existing town sewer line, sewage disposal shall be by private subsurface wastewater disposal systems or a private treatment facility with surface discharge.

11.6.2.2 The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.

11.6.2.2.1 The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the disposal rules.

11.6.2.2.2 On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.

11.6.2.3 In no instance shall a disposal area be on a site, which requires a new system variance from the State Subsurface Wastewater Disposal Rules.

11.7 IMPACT ON ABILITY TO DISPOSE OF SOLID WASTE.

If the additional solid waste from the proposed subdivision exceeds the capacity of Castine's Transfer Station, causes the town facility to be no longer in compliance with its

license from the Department of Environmental Protection, or causes the town to exceed its contract with a non-town facility, the applicant shall make alternative arrangements for the disposal of solid waste at his expense. The alternate arrangements shall be at a disposal facility, which is in compliance with its license. The town may not require the alternate arrangement to exceed a period of five years.

11.8 IMPACT ON NATURAL BEAUTY, AESTHETICS, HISTORICAL SITES, WILDLIFE HABITAT, RARE NATURAL AREAS OR PUBLIC ACCESS TO THE SHORELINE.

11.8.1 Preservation of natural beauty and aesthetics.

11.8.1.1 The plan shall, by notes on the Final Plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.

11.8.1.2 Except in areas of Castine designated by the Comprehensive Plan as growth areas, the subdivision shall be designed to minimize the visibility of buildings from existing public roads.

11.8.1.3 The Board may require that the application include a landscape plan that will show the preservation of all trees larger than 42 inches diameter at breast height; the replacement of trees and vegetation; and graded contours.

11.8.1.4 When a proposed subdivision street traverses open fields, the plan shall include the planting of trees.

11.8.2 Retention of open spaces and natural, archaeological or historic features.

11.8.2.1 If any portion of the subdivision is located within an area designated by the Comprehensive Plan as open space or greenbelt, that portion shall be reserved for open space preservation.

11.8.2.2 If any portion of the subdivision is located within an area designated by the Comprehensive Plan or the Department of Economic and Community Development's Natural Heritage Program as a critical natural area, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

11.8.2.3 If any portion of the subdivision is located within an area designated by the Comprehensive Plan or the Maine Historic Preservation Commission as a site of historic or archaeological importance, the plan shall include appropriate measures for the protection of the historic or archaeological resources.

11.8.2.4 The subdivision shall reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of open space to be reserved shall depend on the identified needs for outdoor recreation in the area of town in which the subdivision is located according to the Comprehensive

Plan, proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics.

11.8.2.5 Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended.

11.8.2.6 Reserved open space may be dedicated to the town.

11.8.2.7 Where land within the subdivision is not suitable or is insufficient in amount, or when the applicant prefers, or when suggested by the Comprehensive Plan, a payment in lieu of reservation may be substituted for the reservation of some or part of the open space requirement. Payments in lieu of dedication shall be calculated based upon the percentage of reserved open space that would have otherwise been required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the town tax assessor. The payment in lieu of dedication shall be deposited into a town land open space or outdoor recreation facility acquisition or improvement fund.

11.8.3 Preservation of significant wildlife habitat.

If any portion of a proposed subdivision lies within:

11.8.3.1 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:

11.8.3.1.1 habitat for species appearing on the official state or federal lists of endangered or threatened species,

11.8.3.1.2 high and moderate value waterfowl and wading bird habitat including nesting and feeding areas,

11.8.3.1.3 shorebird nesting, feeding and staging areas and seabird nesting islands,

11.8.3.1.4 critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission; or

11.8.3.2 500 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor;
or

11.8.3.3 other important habitat areas identified in the Comprehensive Plan such as wildlife concentration areas.

The applicant shall demonstrate that there shall be no significantly adverse impacts on the habitat and the species it supports.

A report prepared by a Wildlife Biologist selected or approved by the Board shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the particular species effected. It shall suggest appropriate mitigating measures to be taken to ensure that the subdivision will have no significantly adverse impact on the habitat and the species it supports.

11.8.4 Any existing public rights of access to the shoreline of a water body shall be preserved by means of easements or rights-of-way or shall be included in the open space with provisions made for continued public access.

11.9 CONFORMANCE WITH THE ZONING AND OTHER LAND USE ORDINANCES.

All lots shall meet the minimum dimensional requirements of the Zoning Ordinance for the zoning district in which they are located. The proposed subdivision shall meet all applicable performance standards or design criteria from the Zoning Ordinance.

11.10 FINANCIAL AND TECHNICAL CAPACITY.

11.10.1 Financial capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the Maine Statute and the standards of this Ordinance. If the applicant proposes to construct the buildings in addition to the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determination, the Board shall require objective documentation such as letters from financial institutions and consider the proposed time frame for construction and possible effects of future inflation.

11.10.2 Technical Ability.

11.10.2.1 If the applicant lacks technical ability, he shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.

11.10.2.2 In determining the applicant's technical ability, the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant, his contractors or consultants in any jurisdiction.

11.11 IMPACT ON GROUND WATER QUALITY OR QUANTITY.

11.11.1 Ground Water Quality.

11.11.1.1 When a hydrogeologic assessment is submitted, the assessment shall contain

the following information

- 11.11.1.1.1** A map showing the basic soil types.
 - 11.11.1.1.2** The depth to the water table at representative points throughout the subdivision.
 - 11.11.1.1.3** Drainage conditions throughout the subdivision.
 - 11.11.1.1.4** Data on the existing ground water quality from test wells in the subdivision or from existing wells on neighboring properties.
 - 11.11.1.1.5** An analysis and evaluation of the effects of the subdivision on ground water resources. For residential subdivisions the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from any potential contamination sources.
 - 11.11.1.1.6** A map showing the location of any existing, replacement or proposed subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundary.
- 11.11.1.2** Projections of ground water quality shall be based on the assumption of drought conditions. (Assume 60% of annual average precipitation.)
 - 11.11.1.3** No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards or more than the Secondary Water Standard.
 - 11.11.1.4** If ground water contains contaminants in excess of the primary standards and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
 - 11.11.1.5** If ground water contains contaminants in excess of the secondary standard, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
 - 11.11.1.6** Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan and as restrictions in the deeds to the effected lots.
- 11.11.2 Ground Water Quantity.**

11.11.2.1 Ground water withdrawals by a proposed subdivision shall not adversely effect drilled wells beyond the boundaries of the subdivision.

11.11.2.2 A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff and decreasing the infiltration of precipitation.

11.12 FLOOD PLAIN MANAGEMENT.

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

11.12.1 All utilities and facilities such as sewer, gas, electrical and water systems shall be sited and constructed to minimize flood damage.

11.12.2 Adequate provisions for drainage shall be provided so as to reduce exposure to flood hazards.

11.12.3 The plan shall include a statement that structures in the subdivision shall be constructed with their lowest level or floor, including the basement, at least one foot above the 100 year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sales agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure including, but not limited to, a time-share interest. The statement shall clearly articulate that the town may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. This construction requirement shall also be clearly stated on the plan.

11.13 IDENTIFICATION OF FRESHWATER WETLANDS.

Freshwater wetlands shall be identified in accordance with the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, published by the Federal Interagency Committee for Wetland Delineation, current edition.

11.14 STORM WATER MANAGEMENT.

11.14.1 Adequate provision shall be made for disposal of all storm water generated within the subdivision and any drained ground or surface water by means of a management system of swales, culverts, underdrains and storm drains. The storm water management system shall be designed to conduct storm water flows to existing watercourses or storm drains except where retention basins are designed for such a purpose or where ground water recharge is possible and desirable.

11.14.2 Where a subdivision is traversed by a stream, river or surface water drainageway, or where the Board feels that surface water runoff to be created by the subdivision should be controlled, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins, or other means of channeling surface water within the subdivision and over other properties. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the town to allow for maintenance and improvement of the system.

11.14.3 All components of the storm water management system shall be designed to limit peak discharge rates to predevelopment levels for the 2-year, 10-year and the 25-year frequency, 24-hour duration storms, based on rainfall data for Portland, Maine.

11.14.4 Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity.

11.15 RESERVATION OR DEDICATION AND MAINTENANCE OF OPEN SPACE AND COMMON LAND, FACILITIES AND SERVICES.

11.15.1 Open spaces, whenever possible, shall be visible from collector and local roads to preserve a rural appearance.

11.15.2 All open space common land, facilities and property shall be owned by:

11.15.2.1 the owners of the lots, dwelling units or condominiums by means of a lot-owners association or condominium declaration;

11.15.2.2 an association which has as its principal purpose the conservation or preservation of land in essentially its natural state; or

11.15.2.3 the Town.

11.15.3 Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture or conservation purposes, except for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on common land. When open space is to be owned by an entity other than the town, there shall be a conservation easement deeded to the town prohibiting future development.

11.15.4 The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate that:

11.15.4.1 it shall not be used for future building lots; and

11.15.4.2 which portions of the open space, if any, may be dedicated for acceptance by the town.

11.15.5 The final plan application shall include the following:

- 11.15.5.1** covenants for mandatory membership in the lot-owners association setting forth the owner's rights, interests and privileges in the association and the common property and facilities to be included in the deed for each lot or dwelling;
- 11.15.5.2** draft articles of incorporation of the proposed lot-owners association as a not-for-profit corporation; and
- 11.15.5.3** draft by-laws of the proposed lot-owners association specifying responsibilities and authority of the association, operating procedures of the association, and providing for proper capitalization of the association to cover costs of major repairs, maintenance and replacement of common facilities.

11.15.6 In combination, the documents referenced in section 11.15.5 above shall provide for the following:

- 11.15.6.1** the homeowners association shall have the responsibility of maintaining the common property and facilities;
- 11.15.6.2** the association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with maintenance, repair and replacement of common property and facilities and tax assessments;
- 11.15.6.3** the association shall have the power to place a lien on the property of members who fail to pay dues or assessments; and
- 11.15.6.4** the developer or subdivider shall maintain control of the common property and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Board upon request of the homeowners association or the developer.



ARTICLE 12: DESIGN GUIDELINES

This article is intended to provide an example of design guidelines, which if followed will result in meeting the appropriate performance standards of Article 11. Compliance with these guidelines shall be considered evidence of meeting these standards. Proposed subdivisions not in compliance with the design guidelines of this article may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the performance standards and the statutory criteria. In all instances the burden of proof shall be on the applicant to present adequate information to indicate all performance standards and statutory criteria necessary for approval have been or will be met.

12.1 SUFFICIENT WATER.

12.1.1 Well Construction.

12.1.1.1 Dug wells shall be prohibited on lots smaller than one acre because of the increased probability of contamination from surface water. On lots of one acre or less, the subdivider shall prohibit dug wells by deed restrictions and a note on the plan.

12.1.1.2 To prevent contamination of wells from road salt, wells shall not be constructed within 100 feet of the traveled way of any street when located downhill of the street or within 50 feet of the traveled way of any street when located uphill of the street. This restriction shall be included as a deed restriction and as a note on the plan.

12.1.2 Fire Protection.

12.1.2.1 Fire hydrants connected to a public water supply system shall be located within 500 feet of any building within the subdivision.

12.1.2.2 Fire fighting water storage of 10,000 gallons plus 2000 gallons per lot shall be provided for subdivisions not served by a town water supply. The Board may require additional storage capacity upon recommendation from the Fire Chief. If a pond is proposed for water storage, dry hydrants shall be provided and the capacity of the pond shall be calculated based upon the lowest water level minus the equivalent displacement of three feet of ice.

12.1.2.3 Hydrants or other provisions for drafting water shall be provided to the specifications of the Fire Department. The minimum pipe size connecting dry hydrants to any water storage shall be six inches.

12.1.2.4 A suitable accessway to the water source shall be constructed and an easement shall be provided to the town to allow access if the dry hydrants, storage vaults, ponds or other water sources for fire fighting are not within the right-of-way of a proposed or existing street.

12.2 TRAFFIC CONDITIONS.

12.2.1 Access Control.

12.2.1.1 If a subdivision abuts or contains an existing or proposed collector street the Board may require, for safety reasons, that no residential lot have vehicular access directly onto the collector street. This shall be noted on the plan and in the deed of any lot with frontage on the arterial street.

12.2.1.2 If a lot has frontage on two or more streets, access to the lot shall be provided across the frontage and to the street where the least potential exists for safety hazards to pedestrians, bicycles and vehicular traffic and where traffic congestion will be minimized.

12.2.1.3 When access to a subdivision is a street, the street designs and construction standards of 12.2.2 shall be met. If a conflict between the standards in this section and the standards of 12.2.2 exists, the stricter or more stringent standards shall apply.

12.2.1.3.1 General. Access design shall be based upon the estimated volume using the access classifications defined below:

Low Volume Access: 50 or less vehicle trips per day.

Medium Volume Access: between 50-200 trips per day.

High Volume Access: more than 200 trips per day.

These are further defined in the *Trip Generation Manual*, current edition, published by the Institute of Transportation Engineers.

12.2.1.3.2 Sight distances. Accesses shall be designed in profile and grading and located to provide a safe sight distance of ten feet for each mile of posted speed limit. In any case the minimum safe sight distance shall be 200 feet. Sight distances shall be measured in each direction and calculated from the driver's seat of a passenger automobile standing on that portion of the exit with the front of the automobile a minimum of 10 feet behind the curbline or edge of the shoulder, with the height of the eye 3 ½ feet and to an object 4 ¼ feet above the pavement.

12.2.1.3.3 Vertical alignment. Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from a gutter line on a straight slope of three (3%) percent or less for a minimum of 75 feet. The maximum grade over the entire length shall not exceed eight (8%) percent.

12.2.1.3.4 Low volume accesses.

12.2.1.3.4.1 Skew Angle. Low volume access shall be two-way and intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case be less than 60 degrees.

12.2.1.3.4.2 Curb Radius on a two-way access shall be between 10 and 15 feet.

12.2.1.3.4.3 Access Width on a two-way access shall be between 20 and 24 feet.

12.2.1.3.5 Medium Volume Access.

12.2.1.3.5.1 Skew Angle. May be one or two-way intersecting the road at an angle as near to 90 degrees as possible but in no case less than 60 degrees.

12.2.1.3.5.2 Curb Radius on a two-way access shall be between 25 and 40 feet. On a one-way access the curb radius shall be 30 feet for right turns into and out of the site with a 5 foot radius at the opposite curb.

12.2.1.3.5.3 Width shall be between 24 and 26 feet on a two-way access. If truck traffic is anticipated the width shall be no more than 30 feet. On a one-way access the width shall be between 16 and 20 feet.

12.2.1.3.4.1 Curb-cut width on a two-way access shall be between 74 and 110 feet. On a one-way access the curb-cut width shall be between 46 and 70 feet.

12.2.1.3.6 High volume access is unlikely in Castine and is associated more with factories or large shopping malls. Any such access requirement shall not be less than that required for medium volume access and shall be individually negotiated between the town engineer and the developer.

12.2.2 Street design and construction standards.

12.2.2.1 General Requirements.

12.2.2.1.1 The Board shall not approve any subdivision plan unless proposed streets are designed in conformance with the specifications contained within this Ordinance or any other town ordinance or regulation. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the town of any street or easement.

12.2.2.1.2 Subdividers shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile and cross-section of the proposed streets and existing streets within 300 feet of all proposed intersections. The plan view shall be at a scale of one inch to no more than

fifty feet. The vertical scale of the profile shall be one inch to no more than five feet. The plans shall include the following information.

- 12.2.2.1.2.1 Date, scale and North point indicating magnetic or true.
- 12.2.2.1.2.2 Intersections of proposed street with existing streets.
- 12.2.2.1.2.3 Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks and curbs.
- 12.2.2.1.2.4 Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to existing natural drainage ways and water bodies.
- 12.2.2.1.2.5 Complete curve data for all horizontal and vertical curves.
- 12.2.2.1.2.6 Turning radii at all intersections.
- 12.2.2.1.2.7 Centerline gradients.
- 12.2.2.1.2.8 Size, type and location of all existing and proposed utilities, above and below ground, to include but not be limited to water, sewer, gas, electricity, telephone and cable.
- 12.2.2.1.3 Upon receipt of plans for a proposed public street the Board shall forward a copy to the town selectmen and engineer for review and comment. Plans for streets which are not proposed to be offered for acceptance by the town shall be sent to the town engineer for review and comment.
- 12.2.2.1.4 If the subdivider proposes improvements to existing numbered highways or town streets the proposed design and construction details shall be approved in writing by the Maine Department of Transportation or the town selectmen as appropriate.
- 12.2.2.1.5 If the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

“All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town of Castine until they meet the town street design and construction standards.”

12.2.2.2 Street Design Standards.

- 12.2.2.2.1 These guidelines shall control the roadway, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street and

shall be met by all streets within a subdivision unless the developer can provide clear and convincing evidence that an alternate design will meet good engineering practice and will meet the performance standards of Article 11

- 12.2.2.2.2** If the subdivision borders an existing narrow street (one not meeting the width standards in this Ordinance), or when the town plans to realign or widen a street that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes shall not be included in computing lot area or the setback requirements of the Zoning Ordinance.
- 12.2.2.2.3** Any subdivision expected to generate average daily traffic of more than 200 trips per day shall have at least two street connections with existing public streets.
- 12.2.2.2.4** The standards in the Castine Road Regulations for widths of rights-of-way, traveled ways, shoulders, roadway crowns and grades shall be followed unless more stringent standards are contained in this Ordinance.
- 12.2.2.2.5** Dead End Streets shall be constructed to provide a cul-de-sac turnaround with the following requirements for radii: property line: 60 feet; outer edge of pavement: 50 feet; inner edge of pavement: 30 feet. The Board may require landscaping the cul-de-sac in any location and require the reservation of a twenty foot easement in line with the street to provide for the continuation of bicycle or pedestrian traffic or utilities to the next street. If a future subdivision is possible, the Board may also require a fifty foot easement in line with the street to provide for the continuation of the street.
- 12.2.2.2.6** Grades, Intersections and Sight Distances.
 - 12.2.2.2.6.1** Grades of all streets shall conform in general with the terrain so cut and fill are minimized while maintaining a minimum grade of 0.5% and a maximum grade of 6%.
 - 12.2.2.2.6.2** All changes in grade shall be as gradual as possible and connected with vertical curves that provide for a minimum sight distance of seven feet for each mile per hour (MPH) of the street design speed. (A street with a proposed speed limit of 20 MPH would require a stopping sight distance of 140 feet.) Stopping sight distances shall be calculated with an height of eye of 3 ½ feet and height of object at ½ foot.
 - 12.2.2.2.6.3** Where new street intersections or driveway curb-cuts are proposed,

sight distances as measured along the road onto which traffic will be turning shall be ten feet for each MPH of the proposed speed limit. Sight distance shall be measured from the driver's seat of an automobile standing on that portion of the exit with the front of the vehicle 10 feet behind the curblineline or edge of the shoulder with the height of the eye 3 ½ feet to the top of an object 4 ¼ feet above the pavement.

12.2.2.2.6.4 T-type intersections are safer than cross-type intersections, therefore cross (four-cornered) street intersections shall be avoided when possible. A minimum offset of 125 feet shall be maintained between the centerlines of streets to reduce hazardous "corner-cutting."

12.2.2.2.7 Sidewalks shall be installed within all subdivisions located within areas designated as growth areas in the Comprehensive Plan. Where sidewalks exist adjacent to a proposed subdivision outside of growth areas, sidewalks shall be installed connecting to existing sidewalks. The Board may require the installation of sidewalks in other subdivisions for reasons of safety or for other compelling considerations. Where installed, sidewalks shall meet these minimum requirements.

12.2.2.2.7.1 Sidewalks shall be located at least five feet from the curb facing or edge of the shoulder if the street is not curbed.

12.2.2.2.7.2 Bituminous sidewalks.

12.2.2.2.7.2.1 "Subbase" aggregate course shall be no less than twelve inches thick after compaction.

12.2.2.2.7.2.2 The hot bituminous pavement surface course shall be M.D.O.T. plant Mix Grade D constructed in two lifts. Each lift to be no less than one inch after compaction.

12.2.2.2.7.3 Portland Cement Concrete Sidewalks

12.2.2.2.7.3.1 "Subbase" aggregate course shall be no less than twelve inches thick after compaction.

12.2.2.2.7.3.2 The Portland Cement concrete shall be no less than four inches thick and reinforced with six inch square, number 10 wire mesh.

12.2.2.2.8 Curbs shall be installed within all subdivisions located within designated growth areas within the Comprehensive Plan or when the Board determines they are needed to protect pedestrians, street trees and utility poles.

12.2.2.2.8.1 Granite curbing shall be installed on a thoroughly compacted gravel base of six inches minimum thickness.

12.2.2.2.8.2 Bituminous curbing shall be installed on the base course of the pavement.

12.2.2.2.8.3 Concrete curbing may be installed only after approval by the Board and shall be in conformance with specifications provided by the town engineer.

12.2.2.2.9 The specified traveled way width shall be measured between the curb faces.

12.2.2.3 Street Construction Standards.

12.2.2.3.1 The minimum thickness of material shall be as follows:

12.2.2.3.1.1 Aggregate Subbase Course – 15 inches (maximum size stone 6 inches);

12.2.2.3.1.2 Crushed Aggregate Base Course – 3 inches;

12.2.2.3.1.3 Hot Bituminous Pavement – 3 inches (Base Course 1 ¾ inches, Surface Course 1 ¼ inches);

12.2.2.3.1.4 Surface gravel (No bituminous surface) – 3 inches.

12.2.2.3.2 Preparation.

12.2.2.3.2.1 Before any clearing has started on the right-of-way, the center line and side lines of the street shall be staked or flagged at fifty foot intervals.

12.2.2.3.2.2 Before grading is started, the entire length of the area within the right-of-way necessary for traveled way, curbs, shoulders, sidewalks, drainageways and utilities shall be cleared of all stumps, roots, brush and other objectionable material. All shallow ledge, large boulders and tree stumps shall be removed from the cleared area.

12.2.2.3.2.3 All organic, frost susceptible or other deleterious material shall be removed to a depth of two feet below the subgrade of the roadway. Rocks and boulders larger than 6 inches shall also be removed to a depth of two feet below the subgrade of the roadway. On soils which have been identified by the Town Engineer as not suitable for roadways, either the subsoil shall be removed from the street site to a

depth of two feet below the subgrade and replaced with material meeting the specifications for aggregate subbase indicated below or a M.D.O.T. approved stabilization geotextile may be used.

12.2.2.3.2.4 Except in a ledge cut, side slopes shall be no steeper than a slope of 3 feet horizontal to one foot vertical (3:1), and shall be graded, loomed, limed, fertilized and seeded according to the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge, a side slope no steeper than 1:4 is permitted.

12.2.2.3.2.5 All underground utilities shall be installed prior to paving to avoid cuts in the pavement. All lot and building service connections (sewer, water, electricity) shall be installed prior to paving to the edge of the right-of-way.

12.2.2.3.3 Bases and Pavement.

12.2.2.3.3.1 Bases and /Subbases.

12.2.2.3.3.1.1 Aggregate for the subbase shall contain no particles of rock exceeding six inches in diameter and be of sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation passing a 3 inch sieve should be uniform and without any gap gradation.

12.2.2.3.3.1.2 If the Aggregate Subbase Course is found to be not fine gradable because of large stones, then a minimum of three inches of Aggregate Base Course shall be placed on top of the subbase course. This shall be screened or crushed gravel of hard durable particles free from any vegetative matter, lumps or balls of clay and other deleterious substances. No particles of stone exceeding two inches in any dimension shall be allowed and all gradation passing a three-inch sieve should be uniform without any gap gradation.

12.2.2.3.3.2 Pavement joints.

Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

12.2.2.3.3.3 Pavements.

12.2.2.3.3.3.1 Minimum standards for the base layer of pavement shall be the

M.D.O.T. specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15 provided the air temperature in the shade at the paving location is 35 degrees F or higher and the surface to be paved is not wet or frozen.

12.2.2.3.3.2 After the base layer of pavement has stabilized, the surface layer of pavement should be placed. The minimum standards for the surface layer shall be M.D.O.T. specifications for plant mix grade C or D with an aggregate size of no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on the aggregate characteristics. The pavement may be placed between April 15 and October 15 provided the air temperature in the shade at the paving site is 50 degrees F or higher and the surface to be paved is not wet.

12.2.2.3.3.4 Surface gravel.

Private rights-of-way may have a gravel surface. Three inches of surface gravel shall be placed on top of the aggregate subbase. This surface gravel shall have no stones larger than 2 inches in size, uniformly graded with 95-100% by weight passing a 2-inch sieve, 30-65% by weight passing a 1/2 -inch sieve, and 7-12% by weight passing a no. 200 sieve.

12.3 IMPACT ON NATURAL BEAUTY, AESTHETICS, HISTORIC SITES, WILDLIFE HABITAT, RARE NATURAL AREAS OR PUBLIC ACCESS TO THE SHORELINE.

12.3.1 Preservation of natural beauty and aesthetics.

12.3.1.1 A subdivision in which the land cover is forested may be required by the Board to maintain or provide a wooded buffer strip no less than fifty feet in width along all existing public streets. The buffer strip may be broken only for utilities, streets and driveways. Buildings may be required to be located within the forested portions of the subdivision and be restricted from open fields.

12.3.1.2 If the subdivision contains no forest or insufficient forested portions to include all buildings, the subdivision shall be designed to minimize the appearance of buildings when viewed from existing public streets.

12.3.1.3 If a proposed subdivision street traverses open fields, the plans shall provide for the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.

12.3.2 Retention of open spaces and natural or historic features.

- 12.3.2.1** The subdivision shall reserve at least five percent of the area of the subdivision as open space to provide for the recreational needs of the occupants of the subdivision and/or maintain the scenic or natural beauty of the area. In determining the need for open space, the Board shall consider the needs identified in the Comprehensive Plan or a town recreation plan for open space or recreational facilities in the environs of the subdivision; the proximity of the subdivision to dedicated open space or recreational facilities; the demographic characteristics of potential residents; the type of subdivision development; and the density of lot sizes in the subdivision.
- 12.3.2.2** Subdivisions with an average density of two or more dwelling units per acre shall provide no less than fifty percent of the open space as usable space to be improved for ball fields, playgrounds or other similar active recreational facilities. A site intended to be used for active recreation such as a playground or ball field, should be relatively dry and level; have a total frontage on one or more streets of at least 200 feet; and have no major dimension of less than 200 feet.
- 12.3.2.3** Sites selected primarily for scenic or passive recreational purposes shall have such access as the Board may deem adequate and no less than 25 feet of road frontage. The configuration of such sites shall be as determined to be adequate by the Board with regard to scenic attributes and any significant wildlife habitat to be preserved. Provisions shall be made for sufficient areas for trails, lookouts and other similar natural features whenever possible.

12.3.3 Preservation of significant wildlife habitat.

Wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within or adjacent to identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife and provide their written comments to the Board. The following guidelines are designed to protect the significant wildlife resources identified within the town.

12.3.3.1 Protection of significant wildlife and important habitats.

- 12.3.3.1.1** There shall be no timber harvesting within the strip of land extending 75 feet inland, horizontal distance, from the normal high-water line of a waterbody or the upland edge of a wetland, except to remove safety hazards. This shall be increased to 100 feet when the following habitat areas fall under the jurisdiction of the Maine Mandatory Shoreland Zoning Act. This restriction shall appear as a note on the plan and as a deed restriction to the effected lots.

12.3.3.1.1.1 Habitat for species appearing on the official state or federal lists of endangered or threatened species;

12.3.3.1.1.2 Shorebird nesting, feeding and staging areas and seabird nesting islands;

12.3.3.1.1.3 High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;

12.3.3.1.1.4 Critical spawning and nursery areas for the Atlantic Sea Run Salmon; or

12.3.3.1.1.5 Coastal wildlife concentration areas and any other important habitat areas identified in the Comprehensive Plan.

12.3.3.1.2 There shall be no cutting of vegetation within a strip of land extending 75 feet inland from the normal high-water line of a shoreland except to remove safety hazards when the following habitat areas fall under the jurisdiction of the Maine Mandatory Shoreland Zoning Act. This restriction shall appear as a note on the plan and as a deed restriction to the effected lots.

12.3.3.1.2.1 Habitat for species appearing on the official state or federal lists of endangered or threatened species.

12.3.3.1.2.2 Shorebird nesting, feeding and staging areas and seabird nesting islands.

12.3.3.1.2.3 High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas.

12.3.3.1.2.4 Critical spawning and nursery areas for the Atlantic sea run salmon.

12.3.3.1.2.5 Coastal wildlife concentration areas and any other important habitat areas identified in the Comprehensive Plan.

12.3.3.2 Protection of wetlands rated high or moderate for waterfowl.

Within 75 feet of the upland edge of a wetland designated as high or moderate value for waterfowl habitat by the Maine Department of Inland Fisheries and Wildlife or in the Comprehensive Plan, there shall be no cutting of vegetation except to remove safety hazards. Any clearing of vegetation in these areas shall be limited to uses expressly authorized in the district. This restriction shall appear as a note on the plan and as a deed restriction to the effected lots.

12.3.3.3 Protection of deer wintering areas.

The report prepared by a wildlife biologist selected or approved by the Board shall include a management plan for deer wintering areas. The management plan shall provide for approximately 50% of the area to be maintained in mature softwoods.

12.3.3.4 Protection of important shoreland areas.

Except as provided elsewhere in this section, within all areas subject to the Castine mandated 250 foot shoreland zone the following restrictions apply. These restrictions shall appear as notes on the plan and as deed restrictions to the effected lots.

12.3.3.4.1 Tree removal shall be limited to no more than forty percent of all of the trees four inches or more in diameter at 4-1/2 feet above the ground level on any lot in any ten year period.

12.3.3.4.2 Harvesting operations shall not create single clear-cut openings greater than ten-thousand square feet in the forest canopy. Where such openings exceed five-thousand square feet they shall be at least one-hundred feet apart. Such clear-cut openings shall be included in the calculation of total tree volume removal. For the purposes of these guidelines volume may be considered to be equivalent to basal area.

12.3.3.4.3 In no event shall cleared openings for development, including but not limited to principal and accessory structures, driveways, wells and sewage disposal areas, exceed in the aggregate 25% of the lot area or ten-thousand square feet, whichever is greater. Land previously developed shall be included in the calculation.

12.3.3.5 If other important wildlife habitat has been identified by the Department of Inland Fisheries and Wildlife or by the Comprehensive Plan, the restrictions on activities in and around these areas shall be reviewed by the Department of Inland Fisheries and Wildlife and their comments presented to the Board in writing.

12.4 STORM WATER MANAGEMENT DESIGN GUIDELINES.

12.4.1 A drainage easement shall be provided for existing water-courses, seasonal and year around, or proposed drainage ways of at least thirty feet in width and conforming substantially with the lines of existing natural drainage.

12.4.2 The minimum pipe size for any storm drainage pipe shall be fifteen inches for driveway entrances and eighteen inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material reaching a minimum of 6 inches below the bottom of the pipe and extending to 8 inches above the top of the pipe. The bedding shall contain no stones larger than 3 inches, lumps of clay or organic matter.

12.4.3 Catch basins shall be installed as necessary and located at the curb line.

12.4.4 Storm drainage construction standards.

12.4.4.1 Materials.

12.4.4.1.1 Storm drainage pipes shall conform to the requirements of M.D.O.T. materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be used except in closed uses such as underdrains. Bituminous-coated steel pipes shall not be used.

12.4.4.1.2 Pipe material with a fifty year life expectancy shall be used if the storm drainage pipe is to be covered by ten feet or more of fill material. Acceptable pipes are concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinylchloride (PVC) pipe and corrugated aluminum alloy pipe.

12.4.4.2 Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval for a curvilinear drain is obtained in writing from the Board after consultation with the town engineer.

12.4.4.3 Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be spaced no more than 250 feet apart.

12.4.5 Periodically manholes and catch basin shall be cleaned of all accumulation of silt, debris or foreign matter and kept clean by the developer or association until final acceptance by the Utility Board and the town.

12.5 IMPACT ON SHORELINE.

Within a strip of land extending seventy-five feet from any water body or the upland edge of a wetland, a buffer strip of vegetation shall be preserved. Deeds to any lots which include such land shall contain the following restrictions.

12.5.1 There shall be no cleared opening greater than 250 square feet in the forest canopy as measured from the outer limits of the tree crown. A foot path not to exceed ten feet in width as measured between tree trunks is permitted provided that a cleared line of sight to the water is not created.

12.5.2 Selective cutting of trees within the buffer strip is permitted provided that a well distributed stand of trees is maintained. No more than 40% of the total volume of

trees four inches or more in diameter, measured at 4 ½ feet above ground level, shall be removed in any ten year period.

12.5.3 Pruning of tree branches on the bottom $\frac{1}{3}$ of the tree is permitted.

12.6 LOTS.

12.6.1 The Board may require that side lot lines be perpendicular to the street.

12.6.2 The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future division of such lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board and subject to the criteria of the Maine Subdivision Statute, the standards of this Ordinance and all conditions placed on the original approval.

12.6.3 The ratio of lot length to width shall not be more than 5:1. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are specifically prohibited.

12.6.4 Because of the State Emergency 911 Regulation, lots shall be numbered in such a manner as to facilitate location in an emergency situation. Even numbers shall be assigned to lots on one side of the street and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street approved by the Board, but not yet constructed, lot numbers shall correspond and conform with existing or approved lot numbers.

12.7 UTILITIES.

Utilities serving subdivisions in areas designated by the Comprehensive Plan as growth areas shall be installed underground. The Board may approve overhead utilities when the applicant proposes to construct affordable housing and provides evidence that the increased cost of underground utilities will raise the cost of the housing beyond the targets for affordable housing in the Comprehensive Plan.

12.8 MONUMENTS.

All subdivision boundary corners and angle points and all lot boundary corners and angle points shall be marked by suitable monumentation as required by the Maine Board of Registration of Land Surveyors.

12.9 CLUSTER DEVELOPMENT.

12.9.1 Purpose.

The purpose of this section of the Ordinance is to provide flexibility in the design of housing developments to allow for the creation of open space, provide for affordable housing, recreational opportunities or protect important natural features from the adverse impacts of development. Notwithstanding provisions of the Zoning Ordinance relating to dimensional requirements and minimum net residential density, the Board in reviewing and approving proposed residential subdivisions may modify the provisions related to density and dimensional requirements to permit flexibility in approaches to housing and environmental design. This shall not be construed as granting variances.

12.9.2 Application procedure.

The Board may allow lots within subdivisions to be reduced in area and width below the minimum normally allowed by this Ordinance to provide for affordable housing or in return for open space where the Board determines that the benefits of the cluster approach will provide affordable housing, decrease development cost, increase recreational opportunities or prevent the loss of natural features without increasing the net density of the subdivision. Two sketch plans shall be submitted with one layout as a standard subdivision and the other as a cluster development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and width requirements of this Ordinance and if not served by a public sewer have an area suitable for subsurface wastewater disposal in accordance with the Maine Subsurface Wastewater Disposal Rules. The number of buildable lots or dwelling units in the cluster development shall not exceed the number of lots or dwelling units in the standard subdivision.

12.9.3 Estimated costs of the infrastructure development (roads, utilities, etc.) shall accompany the plan. The written statement shall describe the natural features which will be preserved or enhanced by the cluster approach. Natural features include, but are not limited to, moderate to high value wildlife and waterfowl habitats, important agricultural soils, moderate to high yield aquifers or important natural or historic sites identified by the Comprehensive Plan as worthy of preservation. The statement shall also compare the impacts upon Castine from each plan. Examples of impacts are town costs for roads, school busing, solid waste removal, utility efficiencies, recreational opportunities, protection of flood water storage areas, environmental impacts on sensitive lands caused by construction activities, underground utilities, reclamation of land and provision of land for conservation use.

12.9.4 Within ten days of receiving the application, the Board shall invite comment on the application from abutters and town officers and committees. Within thirty days of receiving the application, the Board shall determine whether to allow the subdivision to be developed in accordance with the cluster standards of this section.

12.9.5 Basic requirements for cluster development which the Board may waive or reduce in exchange for the provision of some low or moderate income affordable housing within the subdivision.

- 12.9.5.1** Cluster developments shall meet all requirements of this Ordinance.
- 12.9.5.2** Each building shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of buildings and treatment of spaces, paths, roads, service access and parking. In so doing, the application shall take into consideration all requirements of this section and this Ordinance.
- 12.9.5.3** The net residential acreage shall be calculated by taking the total area of the lot and subtracting, in order, the following.
- 12.9.5.3.1** 15% of the area to account for roads and parking.
 - 12.9.5.3.2** Portions which are isolated and unavailable for building purposes because of existing land uses or lack of access as may be determined by the Board.
 - 12.9.5.3.3** Portions shown to be in a floodway or coastal high hazard zone as designated on the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration.
 - 12.9.5.3.4** Portions which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 - 12.9.5.3.4.1** slopes greater than 20%;
 - 12.9.5.3.4.2** organic soils;
 - 12.9.5.3.4.3** wetland soils;
 - 12.9.5.3.4.4** 50% of the poorly drained soils; and
 - 12.9.5.3.4.5** coastal sand dunes.
 - 12.9.5.3.5** Portions subject to rights-of-way.
 - 12.9.5.3.6** Portions located in the Resource Protection Zone.
 - 12.9.5.3.7** Portions covered by surface waters.
 - 12.9.5.3.8** Portions utilized for storm water management facilities.
- 12.9.5.4** In order to determine the maximum number of dwelling units permitted on a tract of land, the net residential acreage shall be divided by the minimum lot size required by the Zoning Ordinance. No building shall be sited on slopes steeper than 25%, within 100 feet of any water body or wetland or on soil

classified as being very poorly drained.

- 12.9.5.5** Unless a town sewage collection and treatment system or a state approved subdivision collection and treatment facility is provided, no lot shall be smaller than 20,000 square feet.
- 12.9.5.6** The total area of reserved open space within the development shall equal or exceed the sum of the area by which any building lots are reduced below the minimum lot area normally required by the Zoning Ordinance. No less than 30% of the reserved open space shall be useable open space.
- 12.9.5.7** Every building lot reduced in area below the amount normally required shall usually be within 1000 feet of the common land.
- 12.9.5.8** The distance between buildings shall not be less than 30 feet.
- 12.9.5.9** To prevent “strip development,” no individual lot or dwelling unit shall have direct vehicular access onto a public street existing at the time of development.
- 12.9.5.10** Shore frontage shall not be reduced below the minimum required by the Zoning Ordinance.
- 12.9.5.11** Where a cluster development abuts a body of water, a useable portion of the shoreline as well as reasonable public access to it shall be part of the common land.



ARTICLE 13: PERFORMANCE GUARANTEES

13.1 TYPES OF GUARANTEES.

With submittal of the application for final plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements plus a separate payment bond to ensure that the property does not become encumbered by mechanic's liens because the subdivider has not paid the various contractors constructing the roads or other infrastructure. The amount of the guarantees and payment bond shall take into account the time-span of the construction schedule and the estimated inflation rate for construction costs. The conditions and amount of the performance guarantee and payment bond shall be determined by the Board with the advice of the town engineer, town manager, selectmen and the town attorney.

13.1.1 Either a certified check payable to Castine or a savings account or certificate of deposit naming Castine as owner to enable the Town to establish an escrow account.

13.1.2 A performance bond payable to the town issued by a surety company approved by the town manager.

13.1.3 An irrevocable letter of credit, approved by the town manager, from a financial institution establishing funding for the construction of the subdivision from which the town may draw if construction is inadequate.

13.1.4 An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

13.2 CONTENTS OF THE GUARANTEE AND PAYMENT BOND.

The performance guarantee and payment bond shall contain a construction schedule, cost estimates for each major phase of construction taking future inflation into account, provisions for inspection of each phase of construction by the town, provision for the release of part or all of the performance guarantee and payment bond to the developer, and a date after which the developer will be in default and the town shall have access to the funds in order to finish construction.

13.3 ESCROW ACCOUNT.

A cash contribution to the establishment of an escrow account shall be made by either certified check made out to the town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the developer the town shall be named as owner or co-owner and the consent of the town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the developer unless the town has found it necessary to draw on the account. In such case the interest earned shall be proportionately divided between the amount returned to the developer and

the amount withdrawn to complete the required improvements.

13.4 PERFORMANCE BOND.

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

13.5 LETTER OF CREDIT.

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

13.6 CONDITIONAL AGREEMENT.

The Board, at its discretion, may provide for the developer to enter into a binding agreement with the town in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the final plan on the condition that no more than three lots may be sold or built upon until either:

- 13.6.1** it is certified by the Board, or its agent, that all contractors have been paid and all of the required improvements have been installed in accordance with this Ordinance and the rules and regulations of the appropriate utilities; or
- 13.6.2** a performance guarantee acceptable to the town is submitted in an amount necessary to cover the payment of all contractors and completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already satisfactorily installed.
- 13.6.3** Notice of the agreement and any conditions shall be on the final plan which is recorded at the Registry of Deeds.
- 13.6.4** Release from the agreement shall follow the procedures for release of the performance guarantees contained in Section 13.8.

13.7 PHASING OF DEVELOPMENT.

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

13.8 RELEASE OF GUARANTEE.

Prior to the release of any part of the payment bonds or performance guarantee, the Board shall determine to its satisfaction from reports of the town engineer and whatever other boards, agencies and departments which may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which release is requested and all contractors have been paid.

13.9 DEFAULT.

If, upon inspection, the town engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the CEO, selectmen, the Board and the developer or builder. The selectmen shall take any steps necessary to preserve the rights of the town.

13.10 IMPROVEMENTS GUARANTEED.

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



ARTICLE 14: WAIVERS

- 14.1** Where the Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, unless otherwise indicated in the Ordinance, provided the applicant has demonstrated that the performance standards of the Ordinance and the criteria of the Maine Subdivision Statute have been or will be met, the public health, safety and welfare are protected, and provided that the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance or this Ordinance.
- 14.2** Where the Board makes written findings of fact that due to special circumstances of a particular parcel proposed to be subdivided that the provision of certain required improvements is not requisite to provide for the public health, safety of welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements. This is subject to appropriate conditions and provided the waivers do not have the effect of nullifying the intent and purpose of the Comprehensive Plan, the Zoning Ordinance or this Ordinance and further provided that the performance standards of this Ordinance and the criteria of the Maine Subdivision Statute have been or will be met by the proposed subdivision. Evidence shall be presented to the Board in each specific case that each of the following conditions are met:
- 14.2.1** the granting of the waiver will not be detrimental to the public safety, health or welfare or injurious to other property;
 - 14.2.2** the conditions upon which the request for waiver is based are unique to the property for which the waiver is sought and not applicable to other property; and
 - 14.2.3** because of the particular surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience or personal hardship, if the strict interpretation of this Ordinance is followed.
- 14.3** Before the Board shall consider a waiver, the specific section of this Ordinance shall be cited in writing to the Board for which the waiver is requested together with the reasons for such a waiver. Within the written request the applicant shall agree to a thirty (30) day extension of the established time limits to enable the Board to consider the request. In granting waivers to any portions of this Ordinance in accordance with Sections 14.1 and 14.2, the Board shall require such conditions as will assure that the purposes of this Ordinance are met.
- 14.4** Waivers shall be shown on the final plan.



ARTICLE 15: APPEALS

An aggrieved party may appeal any decision of the Board under these regulations to the Hancock County Superior Court within 45-days of the date of the vote of the Board.

