

Town of Brooksville
Subdivision Ordinance
adopted at Special Town Meeting
May 18, 2005

ARTICLE 1 - PURPOSE

The purposes of these regulations are:

- 1.1 To provide for a well defined process for the review of proposed subdivisions;
- 1.2 To clarify the approval criteria of the state Subdivision Law, found in Title 30-A M.R.S.A., §4404;
- 1.3 To assure new development in the Town of Brooksville meets all the criteria of state law and the unique requirements of the town;
- 1.4 To assure the comfort, convenience, safety, health and welfare of the people of the Town of Brooksville;
- 1.5 To protect the environment and conserve the natural and cultural resources of the town.
- 1.6 To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and assure the safety of the residents and community; and
- 1.7 To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality.

ARTICLE 2 - AUTHORITY AND ADMINISTRATION

2.1 Authority.

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

2.2 Administration.

- A. The Planning Board of the Town of Brooksville hereinafter called the Board, shall administer these ordinances.
- B. The provisions of these ordinances shall pertain to all land proposed for subdivision within the boundaries of the Town of Brooksville.

2.3 Amendments.

- A. These ordinances may be amended by a majority vote of a town meeting.
- B. A public hearing shall be held prior to the presentation of any amendment for a vote. Notice of the hearing shall be provided at least seven days in advance of the hearing by posting at the Town Offices and in the local newspaper.

ARTICLE 3 - DEFINITIONS

In general, words and terms used in these ordinances shall have their customary dictionary meanings. Other words and terms used herein are defined as follows:

Applicant: The person applying for subdivision approval under these regulations.

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

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

Cluster Subdivision: A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent open space.

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

Complete Application: An application shall be considered complete upon submission of the required fee and all information required by these ordinances, 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 completion of a portion of the improvements which represents 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 multifamily 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.

Conservation Easement: A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources and historically significant sites; or maintaining air or water quality.

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.

Direct Watershed of a Great Pond: That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond.

Driveway: A vehicular accessway serving one dwelling unit.

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

Engineered Subsurface Waste Water Disposal System: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2,000 gallons per day or more; or any system designed to treat waste water with characteristics significantly different from domestic waste water.

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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 which 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 or inclusions of land that do not conform to the above criteria.

Great Pond: Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

High Intensity Soil Survey: A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that location. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

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

High Water Mark:

Coastal Waters: The elevation at which vegetation changes from predominantly salt tolerant to predominantly non-salt tolerant. By way of illustration, salt tolerant vegetation includes, but is not limited to: salt marsh grass, salt meadow hay, black arrowgrass, seaside lavender, silverweed, salt marsh bullrush, seaside plantain, orach, salt marsh sedge, salt marsh aster. In places where vegetation is not present, the high water mark shall be the identifiable debris line left by non-storm tidal action.

Inland Waters: That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. In the case of wetlands adjacent to rivers, streams, brooks, or ponds, the normal high-water mark is the upland edge of the wetland, and not the edge of the open water.

Level of Service: A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the Highway Capacity Manual, 1991 edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

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

Net Residential Acreage: The total developable acreage available for the subdivision, as shown on the final subdivision plan, minus all areas set aside for streets or access and areas that are unsuitable for development.

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

New Structure or Structures: Includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

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

Planning Board: The Planning Board of the Town of Brooksville.

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

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

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

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

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

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

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

Street Classification:

Cul-de-sac: A street with only one outlet and having at its terminus a circular area for the reversal of traffic movement.

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

Minor Residential Street: A street servicing only residential properties.

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

Subdivision: The division of a tract or parcel of land into 3 or more lots within any 5-year period, that 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 3 or more dwelling units within a 5-year period, the construction or placement of 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 3 or more dwelling units within a 5-year period.

In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel shall be considered to create the first 2 lots and the next dividing of either of the first 2 lots, by whomever accomplished, unless otherwise exempted herein shall be considered to create a third lot, unless:

- a. 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 or for open space land as defined in Title 36 M.R.S.A., §1102 for a period of at least 5 years before the second dividing occurs; or
- b. The division of the tract or parcel is otherwise exempt under this definition.

A lot of 40 or more acres shall not be counted as a lot, except where 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 municipality's shoreland zoning.

A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality or by transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of these regulations, unless the intent of the transferor in any transfer or gift is to avoid the objectives of these regulations. If real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then the previously exempt division creates a lot or lots for the purposes of this definition. The grant of bona fide security interest in an entire lot that has been exempted from the definition under this paragraph, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of these regulations.

In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

Subdivision, Major: Any subdivision containing five or more lots or dwelling units.

Subdivision, Minor: Any subdivision containing four, or less, lots or dwelling units.

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

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

ARTICLE 4 - ADMINISTRATIVE PROCEDURE

4.1 Notice of Meetings

It shall be the responsibility of the Board to give public notice in the Annual Town Report of the schedule for monthly meetings. Special meetings will be publicized by posted notice. Any meeting that will have items voted upon will be publicized two weeks in advance.

4.2 Application Schedule

Subdivision applications shall be presented at regularly scheduled meetings of the Board.

4.3 Preapplication

An applicant may present a preapplication sketch plan for both minor and major subdivisions and make a verbal presentation regarding the site and the proposed subdivision.

Procedure:

- A. Following the applicant's presentation, the Board may ask questions and make suggestions to be incorporated by the applicant into the application.
- B. The date of an on-site inspection may be selected.

4.4 Submission.

The Preapplication Sketch Plan shall show in simple sketch form the proposed layout of streets, lots, buildings and other features in relation to existing conditions. The Sketch Plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It will be most helpful to both the applicant and the Board for site conditions such as steep slopes, wet areas and vegetative cover to be identified in a general manner. It is recommended that the sketch plan be superimposed on or accompanied by a copy of the assessor's map(s) on which the land is located. The Sketch Plan shall be accompanied by:

- A. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision unless the proposed subdivision is less than ten acres in size.
- B. A copy of that portion of the county soil survey covering the proposed subdivision, showing the outline of the proposed subdivision.

4.5 Contour Interval and On-Site Inspection.

Within thirty days of the preapplication meeting, the Board shall hold an on-site inspection of the property and inform the applicant in writing of the required contour interval on the Final Plan. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. The Board shall judge when conditions are feasible for on-site inspections.

4.6 Rights not Vested

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

4.7 Establishment of File.

Following the preapplication submittal the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the preapplication meeting and application shall be maintained in the file. A copy of the minutes of the meeting shall be also placed in the file.

ARTICLE 5 - SUBDIVISION APPLICATION PROCEDURE & REQUIREMENTS

5.1 General.

All federal and state requirements which apply to the subdivision must be completed, signed and accompany the application.

5.2 Procedure.

- A. All applications for final plan approval for a Subdivision shall be accompanied by a non-refundable application fee of \$200.00 and \$100.00 per lot or dwelling unit, payable by check to the municipality. In addition, the applicant shall be charged any costs incurred by the Board in the process of reviewing the application.
- B. The applicant, or his 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.
- C. Immediately following the meeting at which an application for final plan approval of a subdivision is initially presented, the Board shall:
 1. Issue a dated receipt to the applicant.
 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 including a general description of the project.
 3. Notify the clerk and the review authority of the neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
- D. 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.
- E. Upon a determination that a complete application has been submitted for review, the Board shall notify the applicant in writing of that determination. The Board shall hold a public hearing on the final plan application.
- F. The Board shall hold a public hearing within thirty days of determining that it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of general circulation in the municipality 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 mailed to the applicant and abutters.
- G. 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 contained in Title 30-A M.R.S.A., §4404 and the

standards of Article 11. If the Board finds that all the criteria of the Statute and the standards of Article 11 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 Article 11 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 Board shall issue a written notice of its decision to the applicant, including its findings, conclusions and any reasons for denial or conditions of approval.

5.2.1 *Subdivision Review Costs*

In addition to the application fee required under section 5.2 above, the Planning Board may require an applicant to deposit with the Town Treasurer, in advance, a sum determined by the Planning Board to be sufficient to reimburse all outside costs to be incurred by the Planning Board in its review of the subdivision application. Such costs may include, but are not limited to, costs of professional surveying, engineering and legal assistance to the Planning Board in reviewing the applicant's plan submissions and environmental, legal and other technical issues related to the application. The purpose of such outside services shall be to provide independent technical advice to the Planning Board when, in the opinion of the Planning Board, the public interest or issues raised by the application may require it.

The Planning Board shall provide its estimate of review costs to the applicant within thirty (30) days after the Planning Board's receipt of the application for final plan approval. The application shall be deemed incomplete, and all time limits for further review of the application by the Planning Board under this ordinance shall be suspended, pending deposit of the estimated amount by the applicant with the Town Treasurer. The Treasurer shall maintain such funds in a segregated account for the proposed subdivision, and shall draw on that account as directed by the Planning Board, to pay outside costs incurred by the Planning Board in its subdivision review. Any funds remaining in the account following final action by the Planning Board on the subdivision application and full payment of the Planning Board's outside review costs shall be returned to the applicant. In the event the Planning Board's actual outside review costs exceed the initial cost estimate, the Planning Board may require the applicant to deposit additional funds with the Town Treasurer as provided above.

In the event the applicant disagrees with the Planning Board's initial review cost estimate or any supplemental estimate, the applicant may appeal the Planning Board's estimate to the Board of Appeals. Any appeal for this purpose shall suspend the time limits for further review of the application by the Planning Board, until acted on by the Board of Appeals. The Board of Appeals' decision as to the amount to be deposited shall be final, with no further right of appeal by any person. Following action by the Board of Appeals, the applicant shall deposit the amount determined by the Board of Appeals, not in excess of the Planning Board's original estimate. Time limits for review of the application by the Planning Board shall resume upon deposit of the amount concerned by the applicant.

5.2.2 *Improvement Guarantees*

For the purpose of avoiding expenditure of Town funds to complete required improvements in approved subdivisions, the Planning Board shall not finally approve any major subdivision unless and until the applicant provides a financial guaranty for completion of all required public or common improvements, including sewer and water service, electrical

installations, street construction, storm water improvements, fire safety improvements, environmental mitigation improvements and such other public or common improvements required as a condition of the Planning Board's subdivision approval, to include improvements required by other permitting agencies and incorporated in the Planning Board's final subdivision review findings by reference.

Cost estimates for all required improvements shall be provided by the applicant, and shall be verified by an engineer engaged by the Town for this purpose. Each cost estimate shall include a contingency allowance equal to not less than ten percent of the estimated direct cost of the improvements, to allow for unforeseen conditions or circumstances.

Improvement guaranties provided under this section shall consist of one of the following:

- (a) Deposit of cash with the Town in escrow, in the amount of the approved cost estimate plus contingency; or
- (b) Posting of a surety bond from a reputable bond surety company authorized to do business in the State of Maine in the amount of the cost estimate plus contingency; or
- (c) Submission of a letter of credit from an established banking institution authorized to do business in the State of Maine in the amount of the cost estimate plus contingency; or
- (d) Other personal financial guaranties approved by the Planning Board.

The form and sufficiency of any proposed improvement guaranty shall be reviewed and approved by the Town's attorney prior to final approval by the Planning Board.

Upon satisfactory completion of all required improvements, as certified by the Town's code enforcement officer or engineer in accordance with section 8.1 below, the improvement guaranty may be reduced to ten percent (10%) of its original amount. The improvement guaranty shall remain in effect in the reduced amount for one year after completion of the improvements, as a protection against the cost of uncorrected defects. Upon expiration of the one year period, the improvements shall be re-inspected by the Town's code enforcement officer or engineer as provided in section 8.1 below. If no uncorrected defects are found to exist at that time, the improvement guaranty shall be terminated and, in the case of a cash escrow, all remaining funds on deposit shall be returned to the applicant.

In its discretion, the Planning Board may apply the requirements of this section to minor subdivision approvals, when necessary in the public interest. Improvement guaranty requirements under this section may not be waived by the Planning Board with respect to major subdivisions.

5.3 Submissions.

The final plan application shall consist of the following items.

- A. Application Form.
- B. Location Map.

The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:

1. Existing subdivisions in the proximity of the proposed subdivision.
2. Locations and names of existing and proposed streets.
3. Boundaries of the Shoreland Zoning Districts.
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.

C. Final Plan.

The subdivision plan for a Subdivision shall consist of two reproducible, stable-based transparencies, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office, and three copies of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. The reproducible transparencies shall be embossed with the seal of the individual responsible for preparation of the plan. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border 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. Three copies of all information accompanying the plan shall be submitted.

D. Application Requirements.

The application for approval of a Subdivision shall include the following information. The Board may require additional information to be submitted, where it finds necessary in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. Proposed name of the subdivision, or identifying title, and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
2. Verification of right, title, or interest in the property.
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. 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.
4. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
5. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
6. An indication of the type of sewage disposal to be used in the subdivision.
 - a. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted.
7. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by private wells, the applicant shall supply evidence of adequate ground water supply prepared by a well driller or a hydrogeologist familiar with the area.
8. The date the plan was prepared, north point, and graphic map scale.
9. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and adjoining property owners.
10. A high intensity soil survey by a Certified Soil Scientist may be required. Wetland areas shall be identified on the survey, regardless of size.
11. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features.

12. The location of all rivers, streams and brooks within or adjacent to the proposed subdivision. If any portion of the proposed subdivision is located in the direct watershed of a great pond, the application shall indicate which great pond.
13. Contour lines at the interval specified by the Board, showing elevations in relation to mean sea level.
14. The Shoreland Zoning District in which the proposed subdivision is located.
15. The location and size of existing and proposed sewers, culverts, drainage ways and catch basins on or adjacent to the property to be subdivided.
16. The location, names, and present widths of existing streets and highways, and existing and proposed easements, building lines, parks and other open spaces and historical sites and monuments on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.
17. The width and location of any streets, public improvements or open space shown upon the official map within the subdivision.
18. The location of any open space to be preserved and a description of proposed improvements and its management.
19. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public 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 applicant or lot owners are to be maintained shall be submitted. If open space or other land is to be offered to the municipality its acceptance is contingent upon a vote of the Town.
20. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
21. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and
 - a. 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, Map No. 20; or
 - b. The subdivision has an average density of more than one dwelling unit per 100,000 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; or cluster developments in which the average density is less than one dwelling unit per 100,000 square feet but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; or proposed use of shared or common subsurface waste water disposal systems.
22. 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, 1991 edition, published by the Institute of Transportation Engineers.
23. A storm water management plan, prepared by a registered professional engineer in accordance with the Stormwater Management for Maine: Best Management Practices, published by the Maine Department of Environmental Protection (1995). The Board

may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

24. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices, published by the Hancock County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may not waive submission of the erosion and sedimentation control plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
25. All areas within or adjacent to the proposed subdivision which are either listed on or eligible to be listed on the National Register of Historic Places shall be identified.
26. The location and method of disposal for land clearing and construction debris.

ARTICLE 6 -MAJOR SUBDIVISION

6.1 Procedure.

- A. All of the requirements listed under Article 5 Subdivision Application Procedures & Requirements" must be met.
- B. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
 1. Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a waste water discharge license is needed.
 2. Maine Department of Human Services, if the applicant proposes to provide a public water system.
 3. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
 4. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.

ARTICLE 7 -REVISIONS TO APPROVED PLANS

7.1 Procedure.

An applicant for a revision to a previously approved plan shall appear before the Board at a regularly scheduled meeting. Procedure for final plan approval shall be followed.

7.2 Submissions.

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

7.3 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 8 -INSPECTIONS AND ENFORCEMENT

8.1 **The Code Enforcement Officer** is the contact person for inspections and enforcement of the subdivision ordinance.

- A. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the municipal officers, Board, and the subdivider and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.
- B. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting official is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting official shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission from the Board to modify the plans.
- C. At the close of each summer construction season the Town shall, at the expense of the subdivider, have the site inspected by a qualified individual. By October 1 of each year during which construction was done on the site, the inspector shall submit a report to the Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- D. 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 are in place.
- E. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the municipal officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the municipal officers.

8.2 Violations and Enforcement.

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Board in accordance with these regulations.
- B. A person shall not convey, offer or agree to convey any land or dwelling units in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land or dwelling units in an approved subdivision which is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot or dwelling unit in a subdivision for which a final plan has not been approved by the Board.

- E. Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in these regulations and recorded in the Registry of Deeds.
- F. No construction in a subdivision will be allowed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot.
- G. Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A M.R.S.A., §4452.

ARTICLE 9 -PERFORMANCE STANDARDS

The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute (Title 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 prior to the approval of a final plan. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all performance standards and statutory criteria for approval have been or will be met.

9.1. Pollution.

- A. The proposed subdivision shall not discharge waste water to a water body without a license from the Maine Department of Environmental Protection.
- B. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface waterbodies. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.

9.2. Sufficient Water.

- A. Water Supply.
 - 1. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or a private community water system.
 - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other sources of potential contamination.
 - b. Lot design shall permit placement of wells, subsurface waste water disposal areas, and reserve sites for subsurface waste water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.
 - c. If a central water supply system is provided by the applicant, the location and protection of the source, the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
 - d. Additional water storage capacity may be required based upon the recommendation of the fire chief.
- B. Water Quality.

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

ARTICLE 9.2.1-WATER FOR FIRE PROTECTION.

All subdivisions shall comply with the Fire Protection design standards in section 10.1(B) below. Design standards for Fire Protection may be waived or modified by the Planning Board only upon:

- (a) recommendation of the fire chief; and
- (b) a finding by the Planning Board that all principal use structures in the proposed subdivision will be individually protected by a public or private fire protection system (e.g., pressurized wet or dry sprinkler system) that complies with all recommended standards of the National Fire Protection Association (NFPA) and required standards of the Maine State Fire Marshal for the structure concerned.

If the Planning Board grants a waiver or modification of the Fire Protection design standards, the Planning Board shall condition its final approval of the subdivision on the applicant's and subsequent owners' compliance with all NFPA and State Fire Marshal standards, per section 9.2.1(b) above.

9.3. Impact on Aquifer Supply.

The impact of the proposed subdivision on the supply of water to existing wells in the area must be appraised by a local well driller or other hydrological expert to insure that existing wells will not be adversely affected.

9.4. Soil Erosion.

- A. The proposed subdivision shall prevent soil erosion from entering waterbodies, wetlands, and adjacent properties and comply with all federal and state requirements as specified in Sections 5 and 6.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

9.5. Traffic Conditions.

- A. In general, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
 - 1. Safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision;
 - 2. Avoid traffic congestion on any street; and
 - 3. Provide safe and convenient circulation on public streets and within the subdivision.
- B. More specifically, access and circulation shall also conform to the following standards.
 - 1. The street giving access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. A minimum sight distance of ten feet for each mile per hour of posted speed limit shall be maintained or provided.

2. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways and traffic controls within existing public streets.
3. Accessways to non-residential subdivisions or to multifamily developments shall be designed by a qualified traffic engineer to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A study or analysis by a qualified traffic engineer to determine the need for a left-turn storage lane shall be done.
4. Where topographic and other site conditions allow, provision shall be made for street connections to:
 - a. Facilitate fire protection services as approved by the fire chief; or
 - b. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.
5. Street Names, Signs and Lighting.

Streets which join and are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality, and shall be subject to the approval of the Board of Selectmen. No street name shall be the common given name of a person. The developer shall either install street name, traffic safety and control signs meeting municipal specifications or reimburse the municipality for the costs of their installation. Street lighting shall be installed as approved by the Planning Board.
6. Clean-up.

Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

ARTICLE 9.5.1—ROAD STANDARDS

General Provisions:

The final subdivision plan shall clearly delineate location and dimensions of all existing and proposed roads and streets, including existing and proposed private roads and streets that are intended to provide access to the proposed subdivision. The final subdivision plan shall clearly state which proposed roads and streets will be dedicated by the applicant for possible public acceptance and which roads shall be retained as private roads or streets.

The Planning Board's approval of the final subdivision plan shall not operate as an acceptance of proposed roads or streets by the Town of Brooksville and shall not obligate the Town to provide street maintenance or repair. In the event that the final subdivision plan contemplates retention of proposed roads or streets as private roads or streets, the applicant shall provide the Planning Board with information concerning arrangements for ongoing maintenance and repair of the roads and streets concerned, such as proposed deed covenant, homeowners association agreement, or private road maintenance agreement.

All proposed subdivision road entrances must be designed and constructed in accordance with the standards contained in the Town of Brooksville Road Entrance Permit Ordinance.

1. Roads within a Subdivision. The Planning Board shall not approve any subdivision plan unless proposed streets are designed and constructed in accordance with this article, or the Board has received adequate assurances that proposed streets will be so constructed.

2. Subdivision Applications. Subdivider shall submit to the Planning Board all information concerning proposed streets as an integral part of their plot plan and application for subdivision approval, and otherwise as required by the Planning Board.

3. Right of Way.

A. The minimum right of way for two-way traffic width shall be 50 feet, and marked with permanent monuments furnished by the applicant. The cost of the monuments and survey shall be paid by the applicant. Upon recommendation of the fire chief and/or the Town's engineering consultant, the Planning Board may reduce the minimum right-of-way width to 40 feet for two-way roads serving as access to no more than five (5) residential properties. The Planning Board may increase the required minimum right-of-way width to 60 feet for roads that will serve as major collector or arterial roads as defined by Maine Department of Transportation rules or traffic standards.

B. The entire width of the roadway, shoulder and ditch (with backslope) shall be cleaned of all stumps, roots, bushes and perishable material, including all trees except those not interfering with travel or use, and deemed to be desirable for shade or beautification by the Planning Board. The roadway section shall be in the center of the right of way.

4. Road Design. Road design and construction shall conform with drawings Appendix 1 (Gravel Roads) and Appendix 2 (Paved Roads), hereto attached, and section 5 below*

5. Road Base. Aggregates for both the base and surface courses shall consist of granular material containing hard durable particles with reasonably uniform distribution in size from the largest to the smallest particle. Materials that have abnormally high absorption characteristics or that break up when alternately frozen and thawed or wetted and dried shall not be used. The material passing a three inch sieve shall contain not more than seven (7) percent passing a No. 200 mesh sieve, The base course shall not contain any rocks larger than six (6) inches in diameter. All base course material shall be free of vegetable matter, lumps or balls of clay and other deleterious substances. The top six (6) inches (the surface course) shall consist of durable gravel and contain no particles larger than two (2) inches in diameter.

The finish grade for a paved road (the leveling course) shall consist of durable, gravel and contain no particles larger than one (1) inch diameter and shall not contain more than five (5) percent passing a No. 200 mesh sieve. *

The finish grade (surface gravel) for a mineral surface (dirt) road should be a tighter consistency than the subbase gravel by containing more fines and contain no particles larger than one (1) inch and shall contain 7 to 12 percent passing a No. 200 mesh sieve.

* Further guidelines may be found in Appendix 3--MODEL GRADING SPECIFICATIONS, Appendix 4 MODEL SHOULDER/DITCHING SPECIFICATIONS and Appendix 5, Table 1

6. Paving. An all weather flexible type pavement shall be constructed on all new highways and streets prior to their acceptance as town ways. 2" or 2 2" Hot Plant-Mixed Bituminous Concrete depending on Street classification will be considered adequate to fulfill this requirement.

7. Drainage.

A. Adequate provision shall be made for disposal of all surface water and underground water through ditches, culverts, underdrain and/or storm water drainage systems. Complete underground storm sewer systems shall be installed when required by the Board of Selectmen or Planning Board in all proposed streets within all residential subdivisions. Culverts shall be not less than 15 inches in diameter and not less than 24 feet in length, except that a culvert placed more than 3 feet below surface shall be not less than 30 feet in length. Culverts shall be installed with headers to prevent erosion. Culverts shall be 14 gauge metal pipe, either asphalt coated or aluminized type 2 or constructed of plastic of a type and design approved for use on secondary roads by the Maine Department of Transportation. The Road Commissioner may authorize the use of 16 gauge metal pipe if he is satisfied that there will be suitable cover, bed, materials, and compaction prior to installation. Catch basins shall be not less than 30 inches in diameter.

B. Where bridge structures or reinforced concrete box culverts are required to cross major streams, detailed design plans shall be submitted to the Planning Board for review at least 6 months in advance of anticipated construction of the structure to permit appropriate review. All bridges and reinforced concrete box culverts shall be designed to accommodate at least the anticipated 50-year level flood.

C. A new asphalt corrugated metal perforated or DOT approved plastic perforated underdrain pipe of at least 6" diameter shall be installed to properly drain all springs or areas where the ground water level is too high and would provide a hazard to the stability of the roadway base.

8. Slope Easements. Whenever the ratio of slopes for ditches, shoulders, grading and other purposes required by this article cannot be adhered to within the right of way limits, and grading or excavation is necessary beyond this width, it shall be necessary for the applicant to secure sufficient slope easements from abutting owners without cost or expense to the Town, and such rights properly indemnifying the Town shall be presented and recorded prior to any action for acceptance.

9. Utilities. Water, sewer and other utility lines shall be clear of any present or designated sidewalks or trees. Utility poles shall be so placed that any present or designated sidewalk or tree may be contained within the boundaries of the street right of way without obstruction by poles or appurtenances.

10. Dead-end Streets. All dead-end streets shall be constructed to provide a suitable cul-de-sac turnaround with a minimum radius of 50 feet. A "T" turnaround may be substituted for a cul-de-sac if approved by the Planning Board. It is the intent to use a "T" turnaround only where future street extension is planned within 3 years, or adverse horizontal or vertical geometries physically prohibit a cul-de-sac.

11. Inspections During Construction. The Code Enforcement Officer or other agent of the Planning Board shall make periodic inspections of streets during construction to insure that it is in conformance with this article. He shall report to the Planning Board on construction progress when requested.

9.6. Sewage Disposal.

Private Systems.

1. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
 - a. The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the Disposal Rules.
 - b. On lots in which the limiting factor has been identified as being within 24 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
 - c. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

9.7. Impact on the Municipality's Ability to Dispose of Solid Waste.

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

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

A. Preservation of Natural Beauty and Aesthetics.

1. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan. The plan shall limit clearing of trees on any lot to not more than fifty percent (50%) of the wooded areas existing on that lot as of the final plan application date. Clearing of trees in any areas designated in the plan as open space or common land under section 9.16 below shall be limited to not more than twenty-five percent (25%) of the wooded areas existing on such open space or common land as of the final plan application date. The total clearing of existing trees on any tract or parcel of land proposed for subdivision, including areas cleared for roads, other access or utility purposes, shall be limited to not more than fifty percent (50%) of the total wooded areas existing on the tract or parcel of land as of the final plan application date.

2. The Planning Board shall not approve a subdivision of land from which timber has been harvested in violation of rules adopted by the State of Maine pursuant to Title 12 M.R.S.A. §8869 except expressly allowed and upon the findings required under Title 30-A M.R.S.A. §4404(20).

3. The Board may require the application to include a landscape plan that will show the preservation of any existing trees larger than 24 inches diameter breast height, the replacement of trees and vegetation, and graded contours. Notwithstanding the landscape plan, trees larger than 24 inches diameter that are diseased or pose a safety hazard may be removed. The landscape plan shall provide for removal of trees larger than 24 inches diameter and other vegetation when necessary to achieve sight distances for street entrances required under section 9.5(B)(1) above, but the subdivision shall be designed and street entrances located so as to minimize the need for such removals.

4. Removal of "public shade trees", defined in 30-A MRSA § 3281 as "all trees within or upon the limits of any highway", shall require prior permission of the Town's tree warden, conservation commission, or selectmen.

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

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

2. If any portion of the subdivision is located within an area designated as a unique natural area by the Maine Natural Areas Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

3. If any portion of the subdivision is designated a site of historic or prehistoric importance by the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.

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

C. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within:

1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife.

- a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
- b. High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
- c. Shorebird nesting, feeding and staging areas and seabird nesting islands;
- d. Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission.

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

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

9.9. Conformance with Zoning Ordinance 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.

9.10. Financial and Technical Capacity.

A. Financial Capacity.

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of these regulations. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development.

B. Technical Ability.

1. The applicant shall retain qualified contractors and consultants to supervise, construct and inspect the required improvements in the proposed subdivision.
2. In determining the applicant's technical ability the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

9.11. Impact on Water Quality or Shoreline.

Cutting or removal of vegetation along waterbodies shall not increase water temperature, result in shoreline erosion or sedimentation of waterbodies.

9.12. Impact on Ground Water Quality or Quantity.

A. Ground Water Quality.

1. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
 - a. A map showing the basic soils types.
 - b. The depth to the water table at representative points throughout the subdivision.
 - c. Drainage conditions throughout the subdivision.
 - d. A map showing the location of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
2. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
3. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
4. If 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.
5. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
6. Subsurface 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 affected lots.

B. Ground Water Quantity.

1. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.

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

9.13. Floodplain Management.

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

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

9.14. Identification of Freshwater Wetlands.

Freshwater wetlands shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers.

9.15. Storm Water Management.

- A. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system of swales, culverts, underdrains, storm drains and best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995. The storm water management system shall be designed to meet the following standards:
 1. Quantity.
Peak discharge rates shall be limited to the predevelopment levels for the 2-year, 10-year, and 25-year frequency, 24-hour duration storm unless storm water from the subdivision will drain directly into a major water body such as a great pond or the ocean.
 2. Quality.
 - a. Major Subdivisions.
Storm water run-off in major subdivisions must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, to achieve, by design, 40% reduction in total suspended solids.
 - b. Minor Subdivisions.
Storm water run-off in minor subdivisions must be treated by the use of best management practices equivalent to those described in the *Stormwater Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995, to achieve, by design, 15% reduction in total suspended solids.
- B. Where necessary to achieve the above standards, 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 municipality allowing maintenance and improvement of the system.

9.16 Reservation or Dedication and Maintenance of Open Space and Common Land, Facilities and Services.

- A. All open space common land, facilities and property shall be owned by:
1. The owners of the lots or dwelling units by means of a lot owners' association;
 2. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
 3. The municipality.
- B. Further subdivision of the common land or open space and its use for other than non-commercial recreation, agriculture, or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When open space is to be owned by an entity other than the municipality, there shall be a conservation easement deeded to the municipality prohibiting future development.
- C. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
1. It shall not be used for future building lots; and
 2. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
- D. The final plan application shall include any and all covenants.

9.17 Phosphorus Impacts on Great Ponds.

The impact of any planned subdivision shall meet the requirements of the D.E.P. as defined in 30-A MRSA & 3003.

9.18 Minimum Lot Size

Unless connected to public sewer and water services, no subdivision shall be approved for residential or commercial use unless the final subdivision plan provides a minimum of 80,000 square feet of net residential acreage for each single family residence or principal use commercial structure. Multifamily development subdivisions not connected to public water and sewer services must provide a minimum of 80,000 square feet of net residential acreage for the first dwelling unit, plus 20,000 square feet of net residential acreage for each additional dwelling unit.

The Planning Board may approve final subdivision plans that provide for lot sizes of less than 80,000 square feet per single family residence or principal use commercial structure, without public sewer and water service ("cluster subdivisions"), provided that the following conditions are met:

(a) The final subdivision plan reserves or dedicates a portion of the land to be divided as open space or common land as provided in section 9.16 above; and

(b) The overall density of the approved final subdivision plan does not exceed one dwelling unit per 80,000 square feet of net residential acreage; and

(c) The minimum net residential acreage for each single family residence or principal use commercial structure, excluding reserved or dedicated open space or common land, shall be not less than 20,000 square feet.

(d) The Planning Board may, in its sole discretion, further reduce the minimum net residential acreage required for individually-owned single family residences in a cluster subdivision to not less than 12,000 square feet, excluding reserved or dedicated open space or common land, provided that:

i. All lots in the subdivision concerned will be served by a DHS approved community water system and a common subsurface wastewater disposal system meeting all requirements of the Maine Subsurface Wastewater Disposal Rules, that eliminate the need for individual wells and wastewater disposal systems on each individual lot; and

ii. Adequate provisions are made through recorded deed covenants, homeowners association agreements or other mutually enforceable instruments for ongoing operation, maintenance, repair and replacement of the community water system and common wastewater disposal system; and

iii. The overall maximum density requirement of section 9.18(b) is not exceeded.

Cluster subdivisions approved under this alternative section 9.18(d) may include attached or semi-detached housing; zero side yard setback developments; or other innovative siting approaches, provided the Planning Board finds that the overall goals and purposes of this ordinance and the specific subdivision approval criteria under 30-A M.R.S.A. §. 4404 have been met.

ARTICLE 10 -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 9. Compliance with these guidelines shall be considered evidence of meeting those 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 standard(s) 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 been or will be met.

10.1. Sufficient Water.

A. Well Construction.

1. Due to the increased chance of contamination from surface water, dug wells shall be prohibited on lots of smaller than one acre. On lots of less than one acre, the applicant shall prohibit dug wells by deed restrictions and a note on the plan.
2. Wells shall not be constructed within 100 feet of the legal right of way of any street, if located downhill from the street, or within 50 feet of the legal right of way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

B. Fire Protection.

1. A minimum storage capacity of 10,000 gallons shall be provided for a subdivision not served by a public water supply. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Board may require additional storage capacity upon a recommendation from the fire chief based on his experience with the location. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of three feet of ice.
2. Dry hydrants or other provisions for drafting water shall be provided to the specifications of the fire department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six inches, or as specified by the fire chief.
3. Where the dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the municipality shall be provided to allow access. A suitable accessway to the hydrant or other water source shall be constructed and maintained.

10.2. Traffic Conditions.

A. Access Control.

1. The estimate of traffic that will be generated by the proposed subdivision shall not overburden the existing municipal roadway system.
Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the *Trip Generation Manual*, 1991 edition, published by the Institute of Transportation Engineers.
 1. Low Volume Access: An access with 50 vehicle trips per day or less.
 2. Medium Volume Access: Any access with more than 50 vehicle trips per day but less than 200 peak hour vehicle trips per day.
 3. High Volume Access: Peak hour volume of 200 vehicle trips or greater.
 4. Width: Width of constructed roads shall be a minimum of 20' of hard surfaced or provide turnouts at specified locations designated by the Board where this is impractical due to physical conditions.

10.3 Monuments.

- A. Stone or precast concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
- B. Stone or concrete monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill hole 1/2 inch deep shall locate the point or points described above.
- C. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

ARTICLE 11 -WAIVERS

11.1 Waivers Authorized.

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 regulations, provided the applicant has demonstrated that the performance standards of these regulations and the criteria of the subdivision statute have been or will be met, the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of any zoning ordinance, or these regulations.

11.2 Findings of Fact Required.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or 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, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the comprehensive plan, the zoning ordinance, or these regulations, and further provided the performance standards of these regulations and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

11.3 Conditions.

Waivers may only be granted in accordance with Sections 11.1 and 11.2. When granting waivers, the Board shall set conditions so that the purposes of these regulations are met.

11.4 Waivers to be shown on final plan.

When the Board grants a waiver to any of the improvements required by these regulations, the final plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

11.5 Limitations.

The Planning Board shall not waive improvement guarantees required under section 5.2.2 above, with respect to any major subdivision.

The Planning Board may waive fire protection design standards under sections 9.2.1 and 10.1(B) only as provided in section 9.2.1.

The Planning Board shall not waive road standards under section 9.5.1 above or traffic access and circulation standards under sections 9.5(B) and 10.2 above, unless approval of the waiver is recommended by the fire chief and a qualified traffic engineer engaged by the town for this purpose.

The Planning Board shall not waive the minimum lot size requirements of section 9.18, except as permitted in that section.

ARTICLE 12 -APPEALS

12.1 Appeals to Superior Court.

An aggrieved party may appeal any decision of the Board under these regulations to the Hancock County Superior Court, within thirty days of the date the Board issues a written order of its decision.

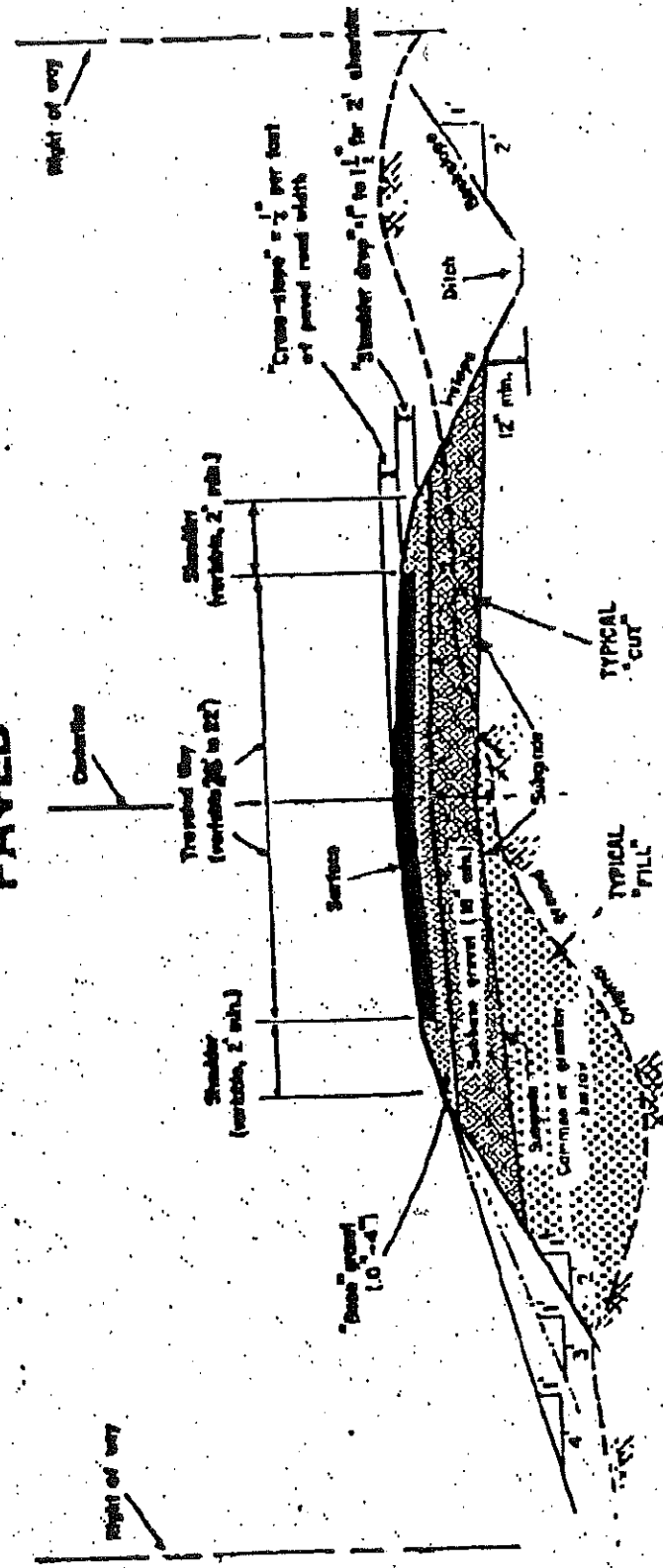
ARTICLE 13 -SEVERABILITY

13.1 Severability

If any portion of this Ordinance shall be held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance

APPENDIX 2

PAVED



DESIRABLE MINIMUM DIMENSIONS OF A LOW-VOLUME PAVED ROAD

Appendix 3

MINIMUM GRADING SPECIFICATIONS

- ◆ All travel lanes on gravel roads will be graded with a cross-slope of $\frac{1}{2}$ "-per-foot of lane width from centerline to shoulder (i.e. a 10 ft lane will have a crown of 5"). Shoulders will be lower and graded at a slightly steeper cross-slope to provide positive drainage toward the ditch.
- ◆ If possible, all slopes will be no steeper than 2:1 (horizontal to vertical) and all backslopes will be no steeper than 1:1.
- ◆ The depth of ditch should be at least 12" below the *bottom* of the roadway base gravel. If the depth of base gravel is unknown, then the ditch should be a minimum of 18" below the shoulder elevation. Care should be given to avoid excessively deep ditches which could create safety and liability concerns to motorists and/or pedestrians, especially with steep side slopes.
- ◆ All ditches will be shaped with no hard transitions in slopes. The shape should be rounded (parabolic) to minimize erosion and water velocities. V-ditches should be avoided.
- ◆ The grade of ditch flowlines should have a minimum of 1% and never be less than 0.5%.
- ◆ All potholes shall be undercut and not simply filled.
- ◆ No gravel or sod berm or windrow will be left in-between the road and the ditch slope.
- ◆ Prior to any grading, the Contractor or Town will call the Dig-Safe toll-free number 1-888-DIG SAFE (344-7233) to protect against possible damage. Comments like "I know there's nothing there" are not acceptable. The 72-hour waiting period will be adhered to in ALL CASES, except emergencies.
- ◆ SAFETY: All work will be protected by proper work zone devices and procedures. The standards presented in the latest edition of Part IV of the Manual on Uniform Traffic Control Devices (MUTCD) will serve as minimum standards.
- ◆ All culverts or obstructions will be flagged or marked prior to grading to ensure no damage to the culverts or equipment.
- ◆ All "ditch spoils" will be properly disposed of by the operator. If possible, an easement will be obtained to dump excavated material onto private property.
- ◆ Any ditch drainage onto private property will only occur after a drainage easement has been signed by the land/home owner.
- ◆ All work will be performed under the direction of the Code Enforcement Officer, with the advice of the Road Commissioner.
- ◆ Any inconvenience to residents or adjacent driveways shall be avoided by prior notification.
- ◆ All culverts, geotextiles and erosion control materials will be approved of and/or bought by the Town prior to placement.
- ◆ If regrading a road, the "old" road surface will be crowned prior to any new gravel placement.
- ◆ All subbase gravel will meet standard MDOT Subbase Gravel specs for Type D. Maximum lifts of 9" will be placed and thoroughly compacted to 95% maximum density and shaped with the proper crown. Samples of all gravel may be obtained by the Town at any time to ensure quality and for periodic testing.

- ◆ All surface gravel should be a "tighter" consistency than the subbase gravel by containing more "fines" and meet the following gradation:

<u>Sieve Size</u>	<u>% Passing by Weight</u>
2"	95 - 100%
1/2"	30-65%
#200	7-12%

The gravel shall be properly shaped and compacted during placement. If the surface gravel is to be paved, then the gradation must be "cleaner" than the above spec and meet MDOT Standard Spec. 703.06 (a) - Type A.

- ◆ All unstable ditches and slopes will be properly protected against erosion according to current best management practices. Timely protection and proper materials will be primary considerations to proper erosion control.

MINIMUM SHOULDER/DITCHING SPECIFICATIONS

- ◆ Shoulders will be lower and graded at a slightly steeper cross-slope to provide positive drainage toward the ditch.
- ◆ If possible, all inslopes will be no steeper than 2:1 (Horizontal to Vertical) and all backslopes will be no steeper than 1:1.
- ◆ The depth of ditch should be at least 12" below the bottom of the roadway gravel. If the depth of base gravel is unknown then the ditch should be a minimum of 18" below the shoulder elevation. Care should be given to avoid excessively deep ditches which could create safety and liability concerns to motorists and/or pedestrians, especially with steep side slopes.
- ◆ All ditches will be shaped with no hard transitions in slopes. The shape should be rounded (parabolic) to minimize erosion and water velocities. V-ditches should be avoided.
- ◆ The slope of the graded ditch should be a minimum of 1%. In difficult situations, it should never be less than .5%.
- ◆ No gravel or sod berm or windrow will be left in-between the road and the ditch slope.
- ◆ Prior to any grading, the Contractor or Town will call Dig-Safe toll-free number 1-888-DIG SAFE (344-7233) to protect against possible damage. Comments like "I know there's nothing there" are not acceptable. The 72-hour waiting period will be adhered to in ALL CASES, except emergencies.
- ◆ **SAFETY:** All work will be protected by proper work zone devices and procedures. The standards presented in the latest edition of Part IV of the Manual on Uniform Traffic Control Devices (MUTCD) will serve as minimum standards.
- ◆ All culverts or obstructions will be flagged or marked prior to grading to ensure no damage to the culverts or equipment.
- ◆ All "ditch spoils" will be properly disposed of by the operator in accordance with all environmental considerations. An easement will be obtained to dump excavated material onto private property.
- ◆ Any ditch drainage onto private property can only occur after a drainage easement is on file with the Town.
- ◆ All work will be performed under the direction of the Code Enforcement Officer, with the advice of the Road Commissioner.
- ◆ Any inconveniences to residents or to adjacent driveways shall be avoided by prior notification.
- ◆ All culverts, geotextiles, and erosion control materials will be approved of and/or bought by the Town for use.
- ◆ All unstable ditches and slopes will be properly protected against erosion according to current best management practices and State law.

TABLE 1
 MINIMUM SURFACE DIMENSIONS OF
 LOW VOLUME ROADS

		GRAVEL SURFACE	PAVED SURFACE
TRAVEL LANE WIDTH		9 ft. (minimum)	9 to 11 ft.
SHOULDER WIDTH		Variable (2 ft. minimum)	Variable (2 ft. minimum)
CROWN		- Using "cross-slope" of 1/2 inch per foot of lane width (4%), Crown = 4 1/2 inch for a 9 foot lane. - Using "cross-slope" of 3/4 inch per foot of lane width (6%), Crown = 6 3/4 inch for a 9 foot lane.	Using "cross-slope" of 1/4 inch per foot of paved lane width (2%) Crown = 2 1/4 inch for 9 foot lane.
SHOULDER DROP		1 1/2 to 2 inch for 2 foot shoulder or 3 to 4 inch for 4 foot shoulder	1 to 1 1/2 inch for 2 foot shoulder or 2 to 3 inch for 4 foot shoulder
SUPER ELEVATION (maximum)		1 inch per foot of road width Ex: 22 inch for 22 foot road Ex: 24 inch for 24 foot road	1 inch per foot of road width Ex: 22 inch for 22 foot road Ex: 24 inch for 24 foot road

-1989-
 MAINE LOCAL ROADS CENTER

Town of Brooksville
Planning Board
Land Use & Subdivision Application Fee Schedule
& Penalties for Non-Conformance

1 APPLICATION FEE \$ 120.00 plus per sq. ft fee

2 The PER SQUARE FEET ADDER FEE is **fifteen cents (\$.15)** per square foot of useable space. On construction other than closed in structures the square footage will be calculated using the footprint of the requested construction.

3 DOCKS & FLOATS \$ 75.00 per

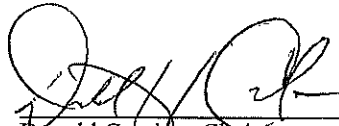
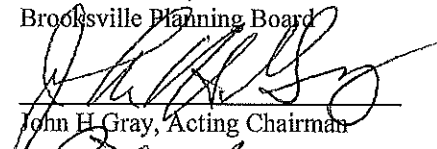
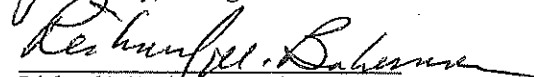
4 A PENALTY FEE of two times (2X) the normal total fee for after the fact applications.

5 SUBDIVISION APPLICATION FEE - 3 to 7 Lots \$ 200.00 plus \$100.00 per lot
- 8 to 14 Lots \$ 400.00 plus \$150.00 per lot
- 15 + Lots \$ 600.00 plus \$200.00 per lot

The Planning Board reserves the right to charge back to the applicant any unusual charges for legal or consultant fees associated with Subdivision Applications.



Amber Bakeman
Brooksville Town Clerk


Donald Condon, Chairman
Brooksville Planning Board
John H. Gray, Acting Chairman
Richard M Bakeman, Selectman
Brooksville Select Board

Dated : February 4, 2009 at Brooksville

