

## Chapter 12: SUBDIVISIONS\*

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\***State law reference(s)**—State definition of the term “subdivision” and requirement that municipalities review subdivisions, 30 M.R.S.A., § 4956 (1964); requirement that subdivision and other land control ordinances be filed in the county registry of deed, 33 M.R.S.A., § 662A (1064)

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## **ARTICLE 1 - PURPOSES AND STATUTORY REVIEW CRITERIA**

### **Sec. 12-1. Purposes**

The purposes of this ordinance are:

- A. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- B. To assure new development in the Town of Winslow meets the goals and conforms to the policies of the Comprehensive Plan;
- C. To assure the comfort, convenience, safety, health and welfare of the people of the Town of Winslow;
- D. To protect the environment and conserve the natural and cultural resources identified in the Winslow Comprehensive Plan as important to the community;
- E. To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures;
- F. To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality; and
- G. To promote the development of an economically sound and stable community.

### **Sec. 12-2. Statutory Review Criteria**

When reviewing any application for a subdivision, as defined by Article 3, the Review Authority shall find that the following criteria as found in Title 30-A M.R.S.A. §4404 have been met, as well as all applicable provisions of the Zoning Ordinance and other sections of this Ordinance have been met, before granting approval. The proposed project:

- A. Will not result in undue water or air pollution. In making this determination, it shall at least consider:
  - 1. The elevation of the land above sea level and its relation to the flood plains;
  - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
  - 3. The slope of the land and its effect on effluents;
  - 4. The availability of streams for disposal of effluents;
  - 5. The applicable State and local health and water resources rules and regulations;
  - 6. Erosion and dust control during construction.
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing water supply, if one is to be used;

- D. Will not cause unreasonable soil erosion or reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway, located outside the urban compact area, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
- F. Will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- G. Will not cause an unreasonable burden on the municipality's ability to dispose of solid waste if municipal services are to be utilized;
- H. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- I. Is in conformance with a duly adopted subdivision ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;
- J. Demonstrates that the developer has adequate financial and technical capacity to meet the standards of this ordinance.
- K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, sections 435 through 490, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
  - 1. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.
    - (a) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
    - (b) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23,

1983;

- L. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
- M. Must determine whether the proposed project is in a flood-prone area based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant. If the subdivision, or any part of it, is in such an area, the applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision or project plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- N. Will identify all freshwater wetlands within the proposed subdivision on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- O. Will identify any river, stream or brook within or abutting the proposed subdivision on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9;
- P. Will provide for adequate storm water management;
- Q. Will prevent spaghetti lots;
- R. If any lots in the proposed subdivision have shore frontage on a river, stream, brook or great pond as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
- S. Will not unreasonably increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision;
- T. If crossing municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

## ARTICLE 2 - AUTHORITY AND ADMINISTRATION

### Sec. 12-3. 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 Winslow, Maine."

### Sec. 12-4. Administration

- A. The Planning Board of the Town of Winslow shall administer this ordinance.
- B. The provisions of this ordinance shall pertain to all land and buildings proposed for subdivision within the boundaries of the Town of Winslow.

## ARTICLE 3 – DEFINITIONS

### Sec. 12-5. Definitions

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

**Applicant:** The person applying for subdivision approval under this ordinance.

**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.

**Board:** Refers to the Winslow Planning Board.

**Capital Improvements Program (CIP):** The municipality's proposed schedule of future projects listed in order of construction priority together with cost estimates and the anticipated means of financing each project.

**CEO:** Refers to the Code Enforcement Officer.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this ordinance unless waived, after the applicant's written request, by a vote by the Planning Board. The Planning 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.

**Comprehensive Plan:** A document or interrelated documents adopted by the Legislative Body, containing the elements established under Title 30-A M.R.S.A. §4326 sub-§§ 1 to 4, including the strategies for an implementation program which are consistent with the State goals and guidelines established under Title 30-A M.R.S.A. §§4311 through 4350.

**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; or maintaining air or water quality.

**Density:** The number of dwelling units per acre of land.

**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. For the purposes of this ordinance, the watershed boundaries shall be as delineated in the comprehensive plan, or as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Planning Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Planning Board and the applicant can not agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Planning Board with information from a professional land surveyor showing where the drainage divide lies.

**Driveway:** A vehicular accessway serving two lots or less.

**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 and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BOD5 and total suspended solids concentrations than domestic waste water.

**Final Plan:** The final drawings on which the applicant's plan of subdivision is presented to the Planning 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 this ordinance, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**Greenbelt:** A series of connected open spaces that may be human-designed, such as trails, or follow natural features, such as streams.

**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 a limiting factor such as 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.

**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*, most recent 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.

**Municipal Engineer:** Any registered professional engineer hired or retained by the municipality, either as staff or on a consulting basis.

**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 Winslow.

**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.

**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:**

**Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the municipality. The following roadways shall be considered arterial streets: Augusta Rd. and Bay St. (Rt. 201 and Rt. 100), Benton Ave., China Rd. (Rt. 137), Garland Rd., Cushman Rd. (Rt. 32), Halifax St. (Rt. 100A), Clinton Ave., Albion Rd.

**Collector Street:** A street with average daily traffic of 200 vehicles per day or greater, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

**Cul-de-sac:** A street with only one outlet and having the other end 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 and which has an average daily traffic of less than 200 vehicles per day.

**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 term shall be defined as in Title 30-A M.R.S.A. §4401, sub-§4, as amended.

**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.

## **ARTICLE 4 - ADMINISTRATIVE PROCEDURE**

In order to establish an orderly, equitable and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Planning Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week in advance of the meeting, distributed to Planning Board members and any applicants appearing on the agenda, and posted at the municipal offices. Applicants shall request to be placed on the Planning Board's agenda at least ten days in advance of a regularly scheduled meeting by contacting the Code Enforcement Officer. Applicants who attend a meeting but who are not on the Planning Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Planning Board so votes. However, the Planning Board shall take no action on any application not appearing on the Planning Board's written agenda.

## **ARTICLE 5 - SKETCH PLAN MEETING AND SITE INSPECTION**

### **Sec. 12-6. Purpose**

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

### **Sec. 12-7. Sketch Plan Meeting Procedure**

- A. The applicant shall present the Preapplication Sketch Plan and make a verbal presentation regarding the site and the proposed subdivision.
- B. Following the applicant's presentation, the Planning Board may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated by the applicant into the subsequent application. Substantive, lengthy discussions about compliance with review standards or the consideration of waiver requests shall be postponed until the subsequent review of the full application.
- C. The date of the on-site inspection may be discussed .

### **Sec. 12-8. Sketch Plan Submissions**

Nine (9) copies of the sketch plan and all supporting materials must be submitted 15 days prior to a regularly scheduled Planning Board meeting, in order to be placed on the Planning Board's agenda. The 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 freehand penciled sketch, shall show site conditions such as steep slopes, wet areas and vegetative cover in a general manner. The sketch plan shall be supplemented with a written project narrative, with general information to describe or outline the existing conditions of the site and a full description of the proposed development. The narrative should include general proposals for how any common areas and infrastructure will be managed and maintained. 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 sketch plan application form and a sketch plan application fee of \$25.00;
- B. 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 10 acres in size.
- C. A copy of that portion of the Kennebec County Soil Survey covering the proposed subdivision, showing the outline of the proposed subdivision development, and
- D. A written project narrative as described above.

### **Sec. 12-9. Contour Interval and On-Site Inspection**

Within thirty days of the sketch plan meeting, or other mutually agreed upon time, the Planning Board shall hold an on-site inspection of the property and inform the applicant in

writing of the required contour interval on the Preliminary 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. If the proposed project includes buildings, the approximate corners of building footprints shall be "flagged." The Planning Board may choose not to conduct on-site inspections when there is inclement weather or snow on the ground. On-site inspections shall be noticed as required by 1 M.R.S.A. §§401-410, and the public shall be allowed to accompany the Planning Board. Minutes shall be taken in the same manner as for regular meetings.

#### **Sec. 12-10. Initiation of the Review Process**

The sketch plan meeting, the 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.

#### **Sec. 12-11. Establishing a File**

Following the sketch plan meeting the Code Enforcement Officer (CEO) shall establish a file for the proposed subdivision. All correspondence and submissions regarding the sketch plan meeting and application shall be maintained in the file.

### **ARTICLE 6 - PRELIMINARY PLAN APPLICATION**

#### **Sec. 12-12. Procedure**

- A. Within six (6) months after the on-site inspection by the Planning Board, the applicant shall submit an application for approval of a preliminary plan at least 15 days prior to a scheduled meeting of the Planning Board. Applications shall be submitted by mail or by hand to the municipal offices. Failure to submit an application within six (6) months may require resubmission of the Sketch Plan to the Planning Board. The preliminary plan should approximate the layout shown on the Sketch Plan, plus any recommendations made by the Planning Board.
- B. All applications for preliminary plan shall be accompanied by a nonrefundable application fee of \$300, plus \$10 per lot or dwelling unit, payable by check to the municipality. In addition, the Planning Board may require the applicant to pay an escrow fee of \$250 per lot or dwelling unit, to be deposited in a special escrow account designated for that subdivision application, to be used by the Planning Board for hiring independent consulting services to review engineering and other technical submissions associated with the application, and to ensure compliance with the Subdivision Ordinance. If the balance in this special account is drawn down by 75%, the Planning Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Planning Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit. Any balance in the escrow account remaining after a decision on the final plan application by the Planning Board shall be returned to the applicant.

C. The Board shall not review any preliminary plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend; the Board shall reschedule review of the application at its next available meeting.

D. Within seven (7) days of the receipt of the Preliminary Plan application, the Code Enforcement Officer shall:

1. Issue a dated receipt to the applicant.
2. Notify in writing by First Class Mail 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.

E. Within thirty (30) days of the receipt of the preliminary plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Planning Board shall notify the applicant of the specific additional material needed to complete the application.

F. Upon determination that a complete application has been submitted for review, the Code Enforcement Officer shall notify the applicant in writing. The Code Enforcement Officer shall also notify the Road Commissioner, Fire Chief, Police Chief, Superintendent of Schools, Town Council, Land Protection Committee, and any other relevant official of the proposed subdivision, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multifamily, commercial or industrial buildings. The Code Enforcement Officer shall request that these officials comment upon the adequacy of their department's existing capital facilities to service the proposed subdivision. The Planning Board shall hold a public hearing on the preliminary plan application.

G. The Planning Board shall hold the 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. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.

H. Within sixty (60) days from the public hearing, the Planning Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Planning Board shall specify in writing its findings of facts and reasons for any conditions or denial.

I. When granting approval to a preliminary plan, the Planning Board shall state in writing the conditions of such approval, if any, with respect to:

1. The specific changes which it will require in the final plan;

2. The character and extent of the required improvements for which waivers may have been requested and which the Planning Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
  3. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.
- J. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but 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 for approval by the Planning Board upon fulfillment of the requirements of this ordinance and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Planning Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

### **Sec. 12-13. Mandatory Submissions for Preliminary Plan**

The following items shall be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12, Waivers. Nine (9) copies of all materials shall be delivered to the Town Office, at least 15 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Planning Board's agenda. The Planning Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

All required engineering plans shall be submitted to the Winslow Code Enforcement Officer in CAD Format 15 or higher, registered and rectified to UTM Zone 19 NAD 83 Meters or Shape Format UTM Zone 19 NAD 83 Meters, and all other documents shall be submitted in both paper and commonly used electronic file formats such as pdf, word processing, database or spreadsheet files.

A. Application Form.

Nine (9) copies of the application form and any accompanying information.

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 Planning 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 and designations of zoning districts.
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.

C. Preliminary plan. The preliminary plan may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. 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 may be drawn at a scale of not more than 200 feet to the inch, provided all necessary

detail can easily be read. The application materials for preliminary plan approval shall include the following information:

1. Proposed name of the subdivision 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 by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
3. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a professional land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The entire parcel or tract shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30-A M.R.S.A. section 4401.
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 connection to the public sewer, a letter from the Winslow Public Works Director stating that the Town system has the capacity to collect and treat the waste water shall be provided.
  - b. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Licensed Site Evaluator or Certified Soil Scientist 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.
  - a. When water is to be supplied by a local well, a written statement from a local well driller shall be submitted indicating there is sufficient water available for the reasonably foreseeable needs of the subdivision.
  - b. When water is to be supplied by public water supply, a written statement from the Kennebec Water District shall be submitted indicating there is adequate supply and pressure for the subdivision, and that the new connections will not create an unreasonable burden upon the water district.
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. Wetland areas shall be delineated 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. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
14. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
15. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision.
16. The width and location of any streets, public improvements or open space shown upon the official map and the comprehensive plan, if any, within the subdivision.
17. The proposed lot lines with approximate dimensions and lot areas.
18. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
19. The location of any open space to be preserved or common areas to be created, and a general description of proposed ownership, improvement and management.
20. The area on each lot where existing forest cover will be permitted to be removed and converted to lawn, structures or other cover and any proposed restrictions to be placed on clearing existing vegetation.
21. 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.
22. Areas within or adjacent to the proposed subdivision which have been identified by the Maine Department of Inland Fisheries and Wildlife Beginning with Habitat Project or within the comprehensive plan. If any portion of the subdivision is located within an area designated as a unique natural area by the comprehensive plan or the Maine Natural Areas Program or Maine Department of Inland Fisheries & Wildlife Beginning With Habitat Project the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.

23. 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, or have been identified in the comprehensive plan or by the Maine Historic Preservation Commission as sensitive or likely to contain such sites.

D. Required submissions for which a waiver may be granted

The following items should be submitted as part of the Preliminary Plan Application, unless the applicant submits a written waiver request, and is granted a waiver from the submission requirement by the Planning Board, pursuant to Article 12, Waivers. Nine (9) copies of all materials shall be delivered to the Winslow Town Office, at least 15 days prior to a regularly scheduled Planning Board meeting, in order for the application to be placed on the Planning Board's agenda. The Planning Board may require additional information to be submitted, as necessary, in order to determine whether the criteria of Title 30-A M.R.S.A., §4404 are met.

1. A high intensity soil survey by a registered soil scientist.
2. Contour lines at the interval specified by the Planning Board, showing elevations in relation to mean sea level.
3. Hydro geologic assessment.

*Note:* A hydro geologic assessment should be 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 "Hydro geologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1998, File No. 98-138, 144 and 147; or
- b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.

The Board may require a hydro geologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater 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; and the development proposes use of a shared or common subsurface wastewater disposal systems. The hydro geologic assessment shall be conducted in accordance with the provisions of Section 12-31 of this ordinance.

4. 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 the most recent available edition of the Trip Generation Manual, 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.
5. Traffic Impact Analysis.

*Note:* A Registered Professional Engineer with experience in traffic engineering must conduct the traffic impact analysis. A traffic impact analysis may be required upon

the recommendation of those officials notified during initial preliminary plan application (see Section 12-12 F).

The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, 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 and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets. The purpose of the Traffic Impact Analysis is to assist Planning Board members in determining whether the proposed subdivision shall require improvements to the street(s) providing access to the subdivision.

- E. The Planning Board may require any additional information not listed above, when it is determined necessary by the Planning Board to determine whether the statutory review criteria of Title 30-A M.R.S.A. §4404 have been met.

## **ARTICLE 7 - FINAL PLAN APPLICATION**

### **Sec. 12-14. Procedure**

- A. Within six months after the approval of the preliminary plan, the applicant shall submit nine (9) copies of an application for approval of the final plan with all supporting materials, at least 15 days prior to a scheduled meeting of the Planning Board. Applications shall be submitted by mail to the Planning Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the final plan is not submitted within six months after preliminary plan approval, the Planning Board shall require 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 Planning Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Planning Board prior to the expiration of the filing period. In considering the request for an extension the Planning 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 municipal ordinances or regulations which may impact on the proposed development have not been amended.

- B. A non-refundable application fee of \$300, payable by check to the municipality, shall accompany all applications for final plan approval for subdivision. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the application for final plan approval, along with any supporting materials, pursuant to the procedures of Article 6, Section 12-12. B.
- C. 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.
2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed.
3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Permit.

Note: If the Planning Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.

- D. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, in accordance with Section 12.13.C.23, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation commission prior to submitting the final plan application.
- E. Written approval of any proposed street names from the Town of Winslow E911 Addressing Officer.
- F. The Planning Board shall not review any final plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Planning Board shall reschedule review of the application at its next regular meeting.
- G. Within three days of the receipt of the Final Plan application, the Planning Board, or its designee, shall issue a dated receipt to the applicant.
- H. Within thirty days of the receipt of the final plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Planning Board shall notify the applicant of the specific additional material needed to complete the application.
- I. Upon determination that a complete application has been submitted for review, the Planning Board shall notify the applicant in writing. The Planning Board shall determine whether to hold a public hearing on the final plan application.

- J. If the Planning Board decides to hold a public hearing, it shall hold the 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 newspaper of local circulation at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by at least First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.
- K. Before the Planning Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 11.
- L. Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Planning Board and the applicant, the Planning 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 Planning 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 Planning Board finds that any of the criteria of the statute or the standards of this ordinance have not been met, the Planning Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Planning Board.

## **Sec. 12-15 Mandatory Submissions**

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. 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 line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Planning Board. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and nine (9) full-sized paper copies of all the final plan sheets and any supporting documents shall be submitted.

All required engineering plans shall be submitted to the Winslow Code Enforcement Officer in CAD Format 15 or higher, registered and rectified to UTM Zone 19 NAD 83 Meters or Shape Format UTM Zone 19 NAD 83 Meters, and all other documents shall be submitted in both paper and commonly used electronic file formats such as .pdf, word processing, database or spreadsheet files.

The final plan shall include or be accompanied by the following mandatory submissions of information:

- A. Completed Final Plan Application Form and Final Plan Application Submissions Checklist.

- B. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- E. An indication of the type of water supply system(s) to be used in the subdivision.
  - 1. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design.
  - 2. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
  - 3. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
- F. The date the plan was prepared, north point, graphic map scale.
- G. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- H. The location of any zoning boundaries affecting the subdivision.
- I. If different than 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.
- J. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- K. 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. 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. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.

- L. Street plans, meeting the requirements of Chapter 11 (Streets) of the Municipal Code.
- M. The width and location of any proposed new streets or public improvements or open space within the subject property that are shown upon the official map or the comprehensive plan, if any.
- N. 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 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 owners are to be managed and maintained shall be submitted. These may include homeowners' association by laws and condominium declarations. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
- O. 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.
- P. The location and method of disposal for land clearing and construction debris.

#### **Sec. 12-16. Required Submissions for which a Waiver May be Granted**

The final plan shall also include or be accompanied by the following information, unless a waiver is requested and granted pursuant to Article 12, Waivers:

- A. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The Planning Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- B. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Planning Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- C. If any portion of the proposed subdivision is in the direct watershed of a great pond, and meets the criteria of section 12-34.C, the following shall be submitted or indicated on the

plan:

- (1) A phosphorus impact analysis and control plan conducted using the procedures set forth in DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.
- (2) A long-term maintenance plan for all phosphorus control measures.
- (3) The contour lines shown on the plan shall be at an interval of no less than five feet.
- (4) Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

### **Sec. 12-17. Final Approval and Filing**

- A. No plan shall be approved by the Planning Board as long as the applicant(s) is/are in violation of the provisions of a previously approved Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A., §4404, and this ordinance have been met, and upon voting to approve the subdivision, the Planning Board shall sign the final plan. The Planning Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Planning 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 Kennebec County Registry of Deeds within ninety days of the date upon which the plan is approved and signed by the Planning Board shall become null and void.
- C. At the time the Planning Board grants final plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Planning Board that their department or district does not have adequate capital facilities to service the subdivision, the Planning Board shall require the plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.
- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless a revised final plan is first submitted and the Planning Board approves any modifications, in accordance with Article 8. The Planning 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 that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Planning Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.

- E. The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
  
- F. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five 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 Planning Board shall have a notice placed in the Registry of Deeds to that effect.

## **ARTICLE 8 - REVISIONS TO APPROVED PLANS**

### **Sec. 12-18. Procedure**

A request to be placed on the Planning Board's agenda for a revision to a previously approved plan should be submitted at least 15 days prior to a scheduled meeting of the Planning Board. If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan approval should be followed. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval should be followed.

### **Sec. 12-19. Submissions**

The applicant shall submit a copy of the approved plan as well as nine (9) copies of the proposed revisions. The application shall also include enough supporting information to allow the Planning Board to make a determination that the proposed revisions meet the standards of this ordinance 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.

### **Sec. 12-20. Scope of Review**

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

## **ARTICLE 9 – INSPECTIONS AND ENFORCEMENT**

### **Sec. 12-21. Inspection of Required Improvements**

- A. At least five days prior to commencing construction of required improvements, the subdivider or builder shall:
1. Notify the code enforcement officer in writing of the time when (s)he proposes to commence construction of such improvements, so that the municipal officers can arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
  2. Deposit with the municipal officers a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate. If the inspection account shall be drawn down by 90%, the subdivider or builder shall deposit an additional 1% of the estimated costs of the required improvements.
- B. 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, the inspecting official shall so report in writing to the municipal officers, Planning Board, and the subdivider and builder. The municipal officers shall take any steps necessary to assure compliance with the approved plans.
- C. 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 Planning Board. Revised plans shall be filed with the Planning 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 Planning Board to modify the plans in accordance with Article 8.
- D. 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 Planning Board based on that inspection, addressing whether storm water and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- E. Prior to the sale of any lot, the subdivider shall provide the Planning Board with a letter from a professional land surveyor, stating that all monumentation shown on the plan has been installed.
- F. Upon completion of street construction and prior to a vote by the municipal officers to submit a proposed public way to a town council, 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 the Town of Winslow. 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.

- G. 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 municipality or control is placed with a lot owners' association.

## **Sec. 12-22. 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 Planning Board in accordance with this ordinance.
- B. A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- C. A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Planning Board.
- E. Development of a subdivision without Planning 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 this ordinance and recorded in the Registry of Deeds.
- F. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot 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.
- 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 10 - PERFORMANCE & DESIGN STANDARDS**

The performance and design standards in this article are intended to clarify and expand upon the statutory review criteria found in Article 1, section 12-2. In reviewing a proposed subdivision, the Planning Board shall review the application for conformance with the following performance and design 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 and design standards and statutory criteria for approval have been or will be met.

## **Sec. 12-23. Basic Subdivision Layout**

### **A. Blocks.**

Where street lengths exceed 1,000 feet between intersections with other streets, the Planning Board may require a utility/pedestrian easement, at least 20 feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five feet in width constructed in accordance with the design standards for sidewalks found in Chapter 11 (Streets) of the Municipal Code of Winslow. Maintenance obligations of the easement shall be included in the written description of the easement.

### **B. Lots.**

1. All lots must meet the requirements of Chapter 14 (Zoning) of the Municipal Code of Winslow.
2. Wherever possible, side lot lines shall be perpendicular to the street.
3. 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 divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Planning Board, subject to the criteria of the subdivision statute, the standards of this ordinance and conditions placed on the original approval.
4. If a lot on one side of a stream (as defined in the DEP Minimum Shoreland Zoning Guidelines), tidal water, or road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the stream, tidal water, or road to meet the minimum lot size.
5. The ratio of lot length to width, outside of the shoreland zone, shall not be more than three to one. Flag lots and other odd shaped lots in which narrow strips are joined to other parcels in order to meet minimum lot size requirements are prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of these lots shall have a lot depth to shore frontage ratio greater than 5 to 1.
6. In areas served by a postal carrier, lots shall be numbered in such a manner as to facilitate mail delivery. 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 or street approved by the Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the E-911 Addressing Officer and the comments shall be considered by the Planning Board.

### **C. Monuments.**

1. Stone or precast concrete monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.

2. Stone 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.
3. Stone or concrete monuments shall be a minimum of four inches square at the top and three feet in length, and set in the ground at final grade level. After they are set, drill holes 1/2 inch deep shall locate the point or points described above.
4. 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.

## **Sec. 12-24. Sufficient Water**

### **A. Water Supply.**

1. Any subdivision within the area designated in the comprehensive plan for future public water supply service should, where practical, make provisions for connection to the public system. The Planning Board shall individually review each subdivision in this category, to determine whether it is practical to connect to the public water system. A proposed subdivision shall not generate a demand on the source, treatment facilities or distribution system of the Kennebec Water District beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the Water District's system as necessary in order to facilitate connection.
2. When a subdivision is to be served by a public water system, the complete supply system within the subdivision including fire hydrants shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the Kennebec Water District, Winslow Fire Chief and Winslow Town Council. Fire hydrants connected to a public water supply system shall be located no further than 500 feet from any building.
3. 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.
    - (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 one acre or smaller, the applicant shall prohibit dug wells by deed restrictions and a note on the plan. This restriction does not include drilled wells.
    - (2) Neither dug nor drilled wells shall be constructed within 100 feet of the traveled way of any arterial street, or within 50 feet of the traveled way of any other street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.
  - 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).

### 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.

## **Sec. 12-25. Erosion and Sedimentation and Impact on Water Bodies**

- A. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.
- B. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
- C. Cutting or removal of vegetation along waterbodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- D. 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.

## **Sec. 12-26. Sewage Disposal**

### A. Public System.

1. Any subdivision within the area designated in the comprehensive plan for future public sewage disposal service should, where practical, make provisions for connection to the public system. The Planning Board shall individually review each subdivision in this category, to determine whether it is practical to connect to the public sewage system. A proposed subdivision shall not generate a demand on the treatment facilities or distribution system of Winslow's sewage system beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of system improvements to the system as necessary in order to facilitate connection.
2. When a subdivision is proposed to be served by the public sewage system, the complete collection system within the subdivision, including manholes and pump stations, shall be installed at the expense of the applicant.
3. The Winslow Public Works Director shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
4. The Winslow Public Works Director shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors,

manholes, and pump stations shall be reviewed and approved in writing by the Winslow Public Works Director.

**B. Private Systems.**

1. Sewage disposal shall be private subsurface waste water disposal systems or a private treatment facility with surface discharge, licensed by the Department of Environmental Protection.
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.
  - 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 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 in the deed 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.

**Sec. 12-27. 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 Planning Board may not require the alternate arrangement to exceed a period of five years.

**Sec. 12-28. Impact on Natural and Historic Resources**

**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.
2. The Planning Board may require the application to include a landscape plan that will show the replacement of trees and vegetation, and graded contours.
3. When a proposed subdivision contains a ridge line identified in the comprehensive plan as a visual resource to be protected, the plan shall restrict tree removal and prohibit building placement within 50 feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.

**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 comprehensive plan or 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 comprehensive plan, National Register of Historic Places, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan. The Planning Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

C. Protection of Important Shoreland Areas.

Refer to the Shoreland Zoning Ordinance. Whenever there is a conflict between the requirements of this section and the Shoreland Zoning Ordinance, the more strict version shall apply.

1. 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.

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

1. All open space common land, facilities and property shall be owned by one or more of the following:
  - a. The owners of the lots or dwelling units by means of a lot owners' association;
  - b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
  - c. The municipality.
2. 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.
3. The common land or open space shall be shown on the final plan with appropriate notations on the plan to indicate:
  - a. It shall not be used for future building lots; and
  - b. Which portions of the open space, if any, may be dedicated for acceptance by the municipality.
4. The final plan application shall include the following:
  - a. Covenants for mandatory membership in the lot owners' association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
  - b. Draft articles of incorporation of the proposed lot owners' association as a not-for-profit corporation; and

- c. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.

These documents shall provide for the following:

1. The homeowners' association shall have the responsibility of maintaining the common property or facilities.
2. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.
3. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
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 Planning Board upon request of the lot owners' association or the developer.

#### **Sec. 12-29. Conformance with Zoning and Other Land Use Ordinances**

All lots shall meet the minimum dimensional requirements of Chapter 14 (Zoning) of the Municipal Code of Winslow. The proposed subdivision shall meet all applicable performance standards or design criteria from the zoning ordinance and other land use ordinances.

#### **Sec. 12-30. 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 this ordinance. 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. In making the above determinations the Planning Board shall consider the proposed time frame for construction and the effects of inflation.

##### **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 Planning 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.

#### **Sec. 12-31. 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. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  - e. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision boundaries; or at a distance of 1,000 feet from potential contamination sources, whichever is a shortest distance.
  - f. 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.

**Sec. 12-32. Floodplain Management**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency, it shall comply with the requirements of Chapter 6 (Floodplain Management) of the Municipal Code of Winslow.

### **Sec. 12-33. Identification of Freshwater Wetlands, Rivers, Streams or Brooks**

Freshwater wetlands within the proposed subdivision shall be identified in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers. Any rivers, streams, or brooks within or abutting the proposed subdivision shall be identified.

### **Sec. 12-34. Stormwater Management**

- A. For subdivisions that require a DEP review under the Site Location of Development Act (SLDA), a stormwater management plan shall be submitted which complies with the SLDA permit and the requirements of DEP Chapter 500 Stormwater Regulations.
- B. For subdivisions that do not require a SLDA permit, but require a DEP permit under the Stormwater Law, a stormwater management plan shall be submitted which complies with the requirements of DEP Chapter 500 Stormwater Regulations.
- C. For subdivisions within the watershed of a Great Pond, containing:
  - 1. five or more lots or dwelling units created within any five-year period; or
  - 2. any combination of 800 linear feet of new or upgraded driveways and/or streets;a stormwater management plan shall be submitted that meets the phosphorus allocation across the entire subdivision in accordance with the methodology described in the DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006.
- D. The Planning Board may require a hydrologic analysis for any site in areas with a history of flooding or in areas with a potential for future flooding, associated with cumulative impacts of development. This hydrologic analysis would be in the form of a "Downstream Analysis" under conditions of the 10-year, 24-hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm, as described below:

#### **Downstream Analysis Methodology**

The criteria used for the downstream analysis is referred to as the "10% rule." Under the 10% rule, a hydrologic and hydraulic analysis for the 10-year, 24 hour storm and the 25-year, 24-hour storm, and the 100-year, 24-hour storm is extended downstream to the point where the site represents 10% of the total drainage area. For example, a 10-acre site would be analyzed to the point downstream with a drainage area of 100 acres. This analysis should compute flow rates and velocities downstream to the location of the 10% rule for present conditions and proposed conditions. If the flow rates and velocities increase by more than 5% and/or if any existing downstream structures are impacted, the designer should redesign and incorporate detention facilities.

## **Sec. 12-35. Traffic Conditions and Streets**

### **A. General Standards**

The proposed subdivision shall comply with the requirements of Chapter 11 (Streets) of the Municipal Code of Winslow.

1. The subdivision transportation system shall provide safeguards against hazards to vehicles, bicyclists and pedestrians in interior subdivision streets and access connections to external streets;
2. The subdivision transportation system shall have design standards that avoid traffic congestion on any street;
3. The subdivision transportation system shall provide safe and convenient circulation for vehicles, bicyclists and pedestrians on interior subdivision streets and access connections to external streets;
4. The subdivision transportation system shall have design standards that are compatible with the estimated Average Annual Daily Traffic of the street, the land uses accommodated by the street, and the lot density of the street; and
5. The subdivision transportation system shall have a positive relationship to the

natural

setting of the proposed subdivision site.

## **ARTICLE 11 – PERFORMANCE GUARANTEES**

### **Sec. 12-36. Types of Guarantees**

With submittal of the application for final plan approval, the applicant shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

- A. Either a certified check payable to the municipality or a savings account or certificate of deposit naming the municipality as owner, for the establishment of an escrow account;
- B. A performance bond payable to the municipality issued by a surety company, approved by the municipal officers, or town manager; or
- C. An irrevocable letter of credit (see Appendix A for a sample) from a financial institution establishing funding for the construction of the subdivision, from which the Municipality may draw if construction is inadequate, approved by the municipal officers, or town manager.

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the municipal engineer, road commissioner, municipal officers, and/or municipal attorney.

### **Sec. 12-37. Contents of Guarantee**

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee

to the developer, and a date after which the applicant will be in default and the municipality shall have access to the funds to finish construction.

#### **Sec. 12-38. Escrow Account**

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

#### **Sec. 12-39. Performance Bond**

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

#### **Sec. 12-40. Letter of Credit**

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

#### **Sec. 12-41. Phasing of Development**

The Planning 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 upon satisfactory completion of all requirements pertaining to previous phases

#### **Sec. 12-42. Release of Guarantee**

Prior to the release of any part of the performance guarantee, the Planning Board shall determine to its satisfaction, in part upon the report of the municipal engineer or other qualified individual retained by the municipality and any other agencies and departments who may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

#### **Sec. 12-43. Default**

If upon inspection, the municipal engineer or other qualified individual retained by the municipality 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 or she shall so report in writing to the code enforcement officer, the municipal officers, the Planning Board, and the applicant or builder. The municipal officers shall take any steps necessary to preserve the municipality's rights.

#### **Sec. 12-44. 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 12 - WAIVERS**

#### **Sec. 12-45. Waivers of Certain Submission Requirements Authorized**

Where the Planning Board makes written findings of fact that there are special circumstances of a particular parcel proposed to be subdivided, or that the application is simple and minor in nature, it may waive portions of the submission requirements, unless prohibited by this ordinance or Maine statutes, provided the applicant has demonstrated that the performance standards of this ordinance 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 the comprehensive plan, the zoning ordinance, or this ordinance.

#### **Sec. 12-46. Waivers of Certain Improvements Authorized**

Where the Planning 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 this ordinance, and further provided the performance standards of this ordinance and the criteria of the subdivision statute have been or will be met by the proposed subdivision.

#### **Sec. 12-47. Waiver of Procedural Steps**

The Planning Board may allow an applicant to combine the final plan and preliminary plan application steps into one procedure, upon making all of the following written findings of fact:

1. No new streets are proposed;
2. No approvals are required from the Maine Department of Environmental Protection under the Site Location of Development Act, Stormwater Law, or Natural Resources Protection Act, other than a "Permit by Rule;"

3. The Planning Board agrees to approve a waiver from the requirement to submit a stormwater management plan and sedimentation and erosion control plan, as ordinarily required by Articles 6 or 7; and
4. The application contains all other applicable submissions required for both the preliminary and final plan steps, except for those items for which a waiver of a required submission has been requested and granted.

#### **Sec. 12-48. Conditions for Waivers**

Waivers may only be granted in accordance with Sections 12-45, 12-46 and 12-47. When granting waivers, the Planning Board shall set conditions so that the purposes of this ordinance are met.

#### **Sec. 12-49. Waivers to be shown on final plan**

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

### **ARTICLE 13 - APPEALS**

#### **Sec. 12-50. Appeals to Superior Court**

An aggrieved party may appeal any decision of the Planning Board under this ordinance to Kennebec County Superior Court, within thirty days of the date the Planning Board issues a written order.

(Ord. No. 02-2004, 5-10-04; Ord. No. 4-2005, 6-13-05; Ord. No. 8-2007, 7-9-07)

