

Chapter 12 SUBDIVISIONS*

***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.
- H. To provide for efficient use of the land and the preservation of open space, farmland, and rural character;
- I. To provide for development in harmony with the natural features of the land that is consistent with historic land use patterns of village-like areas where residences are grouped, surrounded by areas of open space used for agriculture, forestry, recreation and similar purposes
- J. To protect high value natural areas;

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 1, 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:

Abutter: The owner of a property sharing a common boundary with or within 500 feet of a given piece of property, whether or not these properties are separated by a public or private way. For the purposes of this Ordinance, the owners of properties shall be considered to be the person(s) currently listed by the Tax Assessor of Winslow as those against whom taxes are assessed.

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.

Buildable Area: Land area of a parcel excluding Unbuildable Area.

Building Envelope: The area formed by front, side, and rear building restrictions or setback lines of a lot within which development including clearing, excavation, and grading and structures shall be contained.

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.

Open Space, Designated: Reserved land that is permanently protected from further development and remains in a natural condition or is managed according to an approved management plan for natural resource functions, e.g. habitat protection, passive recreation, agriculture, forestry or some combination of these.

Open Space Development: See Subdivision, Open Space.

Open Space Percentage: The percentage of Buildable Area that's required to be part of designated open space.

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.

Primary Conservation Area: Those Unbuildable Areas that include steep slopes (20% or more), hydric soils, wetlands, and surface waters including intermittent streams.

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.

Secondary Conservation Areas: Those areas with significant features that include open fields, high value natural areas, prime USDA agricultural soils, mature woodlands, stone walls, tree lines, existing historic structures, scenic views into and out of the property, trails and hilltops.

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.

Subdivision, Future: A proposed or potential subdivision subsequent to an initial subdivision on the same parent parcel. Note: the number of future lots, a delineated area that will contain all future lots, and a delineated area for future designated open space must be established according to requirements of this Ordinance prior to and shall not be altered subsequent to an initial approved Minor or Major Subdivision.

Subdivision, Minor: A subdivision with up to 4 lots. Note: minor subdivisions are not required to be Open Space Subdivisions.

Subdivision, Major: A subdivision with five or more lots. Note: major subdivisions may be Open Space Subdivisions.

Subdivision, Open Space: An alternative form of residential development where, instead of subdividing an entire tract into lots of conventional size, the same or a similar, number of housing units are arranged on lots of reduced dimensions, with the remaining area of the parcel permanently protected as Designated Open Space.

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.

Unbuildable Area: Land area that cannot be counted toward the minimum lot size under a conventional subdivision and includes steep slopes (20% or more), hydric soils, wetlands, surface water, rights of ways and easements, Resource Protection District, flood ways and portions used for storm water management facilities.

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 (Open Space Developments require 2 (two) meetings, Preapplication sketch plan and Formal sketch plan)

- 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 and Preapplication Sketch Plan for Open Space Developments.

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. 12-8A. Formal Sketch Plan for Open Space Development

A. Additional submission items required for Open Space Development

- 1. An Existing Features (Site Inventory) Map drawn at a scale of one inch equals 100 feet (unless another scale is mutually agreed upon). The inventory and map(s) shall include, at a minimum, the following:
 - a. The location and delineation of Primary Conservation Areas. (Note a high intensity soils map based on test pits may be advantageous in determining less area with hydric soils.) The total acreage of Primary Conservation areas shall be included.
 - b. The location and delineation of existing buildings and unbuildable areas that are not Primary Conservation Areas including rights-of-ways and easements, portions in Resource Protection district, and portions utilized for storm water management facilities.
 - c. The location and delineation of any Essential Habitat Areas onsite or within 250 feet of the subdivision and any other important habitat areas onsite indicated on State "Beginning with Habitat" maps.
 - d. Identification of scenic views into and out from the property with accompanying photos and location and delineation of other Secondary Conservation Areas. The total acreage of Secondary Conservation Areas when applicable shall be included.
 - e. The identification and location of vegetative cover on the property.

2. Calculations.

Applicants shall provide:

- a. Minimum Lot Size. Applicable minimum lot size in the zone project is located in.
- b. Unbuildable Land. Total acreage of Unbuildable Land. Include and total applicable elements from list in section 12-36.B.
- c. Number of Allowable Lots. Number of allowable lots according to formula in section 12-36.C.3.
- d. Open Space Set Aside. Provide total acreage of designated open space that shall be set aside using formula in section 12-36.C.4.

3. Conceptual Plan of Proposed Development.

- a. Applicants shall submit a conceptual plan for the development of the subject parcel that reflects the characteristics of the site as detailed in the site inventory and map(s) and its location within the community as indicated in the site context map. The conceptual plan shall be prepared at the same scale as the site inventory map and be provided as both a translucent sheet, which can be overlaid onto the site inventory map(s), and solid plan. A conceptual plan shall be a draft plan, which

does not include engineering details, but is drawn to scale and indicates the following:

- i) Proposed location of any new road(s) or common driveway(s).
- ii) Proposed residential lots, building envelopes, and potential house sites for each lot.
- iii) Existing and proposed features and amenities, including common areas, trails, or community buildings, etc.
- iv) Proposed boundaries of the designated open space.
- v) A narrative description of the proposed approach for providing for drinking water supply, waste water treatment, stormwater management, and landscaping.

b. Applicants shall demonstrate that their conceptual plan is consistent with the following approach for designing a subdivision:

c.

- i) Step One: Identify Conservation Areas.
All Primary and Secondary Conservation Areas and unbuildable areas shall be identified and when applicable shall be delineated.
- ii) Step Two: Locate House Sites.
To the maximum extent feasible, house sites shall be located outside of those areas delineated in Step One. The location of the house sites shall also reflect the design objectives identified in section 12-36.G.
- iii) Step Three: Align Streets, Common Driveways and Trails.
The minimum length and network of road(s) necessary to access each house lot shall be identified. Common driveways shall also be identified. Roads and common driveways shall be located in such a way that avoids or at least minimizes adverse impacts on both Primary and Secondary Conservation Areas e.g. when possible these access ways shall not be located in open fields unless along part of field perimeter or along a tree line. Proposed trails shall be identified where access to the designated open space is appropriate and/or to provide for pedestrian circulation within the development as well as pedestrian access to areas outside the development.
- iv) Step Four: Identify Lot Lines and Building Envelopes.
Lot lines and building envelopes for each house site, or group of homes on a common lot, shall be identified. The placement of lot lines and building envelopes shall give consideration to those areas identified in Step One as well as conform to the natural features of the landscape to the greatest extent possible, e.g., follow stone walls, lines of boundary trees, streams. The delineation of lots shall also consider the privacy provided for individual homeowners.

4. 4. Conceptual Long Range Development Plan. When a subdivision will not utilize the entire parcel and there is potential for future subdivision or development of the parcel or any of the lots being created, the application shall include a conceptual long-range development plan showing the potential utilization of the lots and the balance of the

parcel not being subdivided. The conceptual long range development plan is a sketch plan with no engineering details, intended to be conceptual in nature, to rely on published data about natural resources relevant to the parcel, and to demonstrate that the current subdivision proposal will not compromise important conservation values or the long term development of the parcel as a conservation design subdivision. This plan shall show the relationship of the proposed subdivision area to the balance of the parcel and to adjacent land. This plan shall analyze the conservation and development potential of the remaining area of the parcel and shall identify and delineate future designated open space area(s), and development area(s) in a manner that demonstrates that both the proposed development and the future development can occur so that it conforms to the requirements for conservation design subdivisions and preserves the significant natural resource and conservation values of the entire parcel. The number of future lots allowed and number of future lots proposed must be shown on the plan. After an initial subdivision has been approved the number of lots for the entire parcel and the boundaries of future area(s) to be developed and future area(s) to be protected as designated open space cannot be changed. The size of future lots can be altered.

Sec. 12-9. 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 (30) 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 (all landowners within 500' of subject property) 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. Additional submission items required for Open Space Development

E. 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.

- D. 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 (30) 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 (30) 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.
- Q. For Open Space Development, the additional submission items listed in Section 12-8.A (A)

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 (90) 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.
 - i) 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.
 - ii) 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:

- i) The homeowners' association shall have the responsibility of maintaining the common property or facilities.
- ii) 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.
- iii) The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
- iv) 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.

Sec. 12-36. Open Space Development

A. Applicability

1. The provisions of Section 12-36 shall be mandatory for all major subdivisions in the Rural and Conservation Districts except as otherwise noted.
2. The provisions of Section 12-36 shall be optional for all major subdivisions in the following districts: High Density Residential, Medium Density Residential, Low Density Residential, Mixed Use, and Industrial.

B. Unbuildable Area. Unbuildable area includes those portions of the lot:

1. With hydric soils.
2. Subject to rights-of-way or easements.
3. Located in Resource Protection District.
4. Covered by surface waters.
5. Utilized for storm water management facilities.
6. With slopes exceeding 20%.
7. Ten (10) percent of the area of the lot to account for roads and parking.
8. A floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration

C. Maximum Density and Open Space

1. **Growth Open Space Percentage.** The High Density Residential, Medium Density Residential, Low Density Residential, Mixed Use, or Industrial District(s) shall have an Open Space Percentage of 30 percent for open space subdivisions.
2. **Rural Open Space Percentage.** The Rural or Conservation District(s) shall have an Open Space Percentage of 60 percent for open space subdivisions.
3. **Number of Allowable Lots.** The total number of residential units allowable within an open space subdivision shall equal but not exceed the number of units that would otherwise be allowed in a conventional subdivision in an existing zoning district unless a density bonus is granted per Section 12-36(C). The total number of dwelling units allowed shall be determined by the following formula:

Total Dwelling Units Allowed = Total Parcel minus Unbuildable Area divided by Minimum Lot Size

$$TU = (TP - UA) / MLS$$

TU = Total Units Allowed (dwelling units)
TP = Total Parcel (acres)
UA = Unbuildable Area (acres)
MLS = Minimum Lot Size (acres)

Note: If minimum lot size is in square feet round to nearest fraction of an acre e.g. a 20,000 square foot minimum lot size would be rounded up to half an acre.

4. Open Space Set Aside. The amount of Designated Open Space that shall be set aside shall be determined by the following formula:

Total Open Space Set Aside = Total Parcel minus Primary Conservation Areas multiplied by Open Space Percentage then added to Primary Conservation Areas

$$TO = ((TP - PC) OSP) + PC$$

TO = Total Open Space Set Aside (acres)
TP = Total Parcel (acres)
PC = Primary Conservation Areas (acres)
OSP = Open Space Percentage (% of Buildable Area)

D. Density Bonuses

The Planning Board may grant a density bonus to an applicant who proposes affordable housing and/or a Low Impact Development approach as a component of the open space subdivision, in accordance with the following criteria:

1. Affordable Housing Bonus.
 - a. A 10% increase in the number of dwelling units allowed may be granted by the Planning Board if an applicant provides a minimum of 25% of units affordable for families meeting criteria of 80% to 120% of the County's median income. Such units may be either for sale or rent.
 - b. The Planning Board must approve a plan for long-term retention of the affordable units within that category.
2. Low Impact Development (LID) Bonus. A 10% increase in the number of dwelling units allowed may be granted by the Planning Board if LID practices according to Maine State Planning Office's "LID Guidance Manual for Maine Communities" are incorporated into the subdivision.

E. Design Standards

1. The following objectives for location of lots and designated open space shall be achieved to the greatest extent feasible in prioritized order:
 - a. Within Rural or Conservation District(s):
 - i. Primary Conservation Areas in protected open space
 - ii. Lots on or with access to suitable soils for subsurface wastewater disposal if no public sewer system
 - iii. Lots within woodlands or if that's not possible along far edges of open fields preferably adjacent to woodlands (to enable new construction to be absorbed by natural landscape features)
 - iv. Lots where scenic views from public roadways are least likely to be blocked or interrupted
 - v. Essential habitats of rare, threatened or endangered wildlife and rare or exemplary plants and natural communities identified on State Beginning with Habitat maps in protected open space
 - vi. Stream corridors and wildlife travel corridors with respective undisturbed vegetative buffers of 100 feet and 300 feet width in protected open space
 - vii. Preservation of cultural features of the rural landscape, including significant trees, stone walls, tree lines, and when feasible historic farmhouses and outbuildings. Significant trees, tree lines, and stone walls and other important natural features not included within designated open space should be incorporated along the edges of individual lots or along a path or road, rather than transected by lot lines or a roadway.
 - viii. High Value Plant and Animal Habitat areas identified on State Beginning with Habitat map and high value natural areas identified in an adopted local or regional open space plan in protected open space
 - ix. Contiguous, usable area for agriculture or sustainable wood lot production in protected open space
 - x. where linkage with nearby open space on other properties is not blocked, and when possible, where continuous corridors of natural vegetation are protected in alignment with any adopted local or regional open space plan
 - xi. Lots avoid slopes exceeding 20% and tops of ridgelines
 - xii. Lots avoid natural drainage ways
 - xiii. Class 1, 2, 3 agricultural soils as defined by USDA in protected open space
 - xiv. Lots where greatest number of units could take maximum advantage of solar heating opportunities provided there is no or minimal conflict with other objectives
 - b. Within High Density Residential, Medium Density Residential, Low Density Residential, Mixed Use, or Industrial District(s):
 - i) Primary Conservation Areas in protected open space
 - ii) Preservation of cultural features of the village landscape, including stone walls, tree lines, and when feasible historic homes and outbuildings
 - iii) Lots where linkage with nearby open space on other properties is not

- blocked, and when possible, where continuous corridors of natural vegetation are protected in alignment with any adopted local or regional open space plan
- iv) Lots where buildings will not interfere with solar access of other properties
 - v) Lots where greatest number of units could be designed to take maximum advantage of solar heating opportunities
 - vi) Lots within woodlands contained in the parcel or if that's not possible along far edges of open fields preferably adjacent to woodlands (to enable new construction to be absorbed by natural landscape features)
 - vii) Lots where scenic views from public roads are least likely to be blocked or interrupted

2. Architectural compatibility of new construction with historic buildings in the community or region is [strongly recommended].

F. Other Standards

1. Flexible Lot Dimensions. Reductions below the minimum otherwise required by the Zoning Ordinance for lot area, street frontage, and lot width are allowed for open space subdivision lots except that minimum lot size for subsurface disposal remains 20,000 square feet. Irregular lot shapes are allowed.

2. Minimum Setback. The minimum setback of lot lines from edge of road pavement shall be 20 feet.

3. Parcel Boundary Setback and Buffer. Lots shall not be less than 50 feet from parcel boundary. A minimum 50 foot undisturbed buffer shall be established between lots and the parcel perimeter.

4. Privacy. To the extent practical, building sites shall be delineated to maximize the privacy afforded to each dwelling unit, by, for example, positioning homes to eliminate direct sight lines to neighboring homes. Single-loaded streets (houses on just one side of the street) are encouraged.

5. Green Lot Perimeter Strip. A green perimeter strip, not less than 25 feet wide shall be maintained with shrubs and trees along all lot lines except outside of wooded areas in designated growth districts or areas the front yard buffer strip may be vegetated with grass or flowers. Such a green strip shall not be built on or paved or used for parking or storage. There shall be no removal of trees over 4 inches in diameter within this buffer. Vegetation shall be retained in its natural state, although tree planting shall be permitted as a matter of right.

6. Roadside Buffer. Outside of designated growth areas, a subdivision in which the land cover type at the time of application is forested, shall maintain an undisturbed wooded buffer strip no less than fifty feet in width along all existing public roads. The buffer may be broken only for driveways and streets.

7. Ridgelines. 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.

8. Historic Resources. 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. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be similar to the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

9. Essential Habitat Buffer. At least a minimum 300 foot undisturbed natural buffer shall be established between development and any Essential Habitat Areas as mapped by Maine Department of Inland Fisheries and Wildlife (MDIFW) Beginning with Habitat program. The applicant shall provide review comments from MDIFW or Maine Natural Areas Program as applicable when essential habitat Areas have been identified.

10. Access Limit. Points of subdivision access to a single existing road shall not exceed two.

11. Roads.

- a. Roads serving open space subdivisions with up to 20 dwelling units shall have a minimum pavement width of 18 feet with a minimum shoulder width of 3 feet. Roads for all subdivisions shall have a maximum pavement width of twenty feet. Shoulders shall be topped with 2 -3 inches of loam and seeded with grass suited for the purpose.
- b. Where feasible, horizontal road alignments shall work with the topography and existing site conditions to follow the natural contours and avoid physical features that give the land its character.
- c. Open fields, agricultural lands and sensitive habitats should be crossed at the edges, preferably along hedgerows and treelines when possible. Roadways shall avoid bisecting fields.
- d. Where feasible, proposed roads should follow any existing gravel/dirt road that has value as a local historic resource.
- e. When roads cross significant viewsheds in open fields, consideration shall be given to design approaches that will minimize their visual impact. These may include earth berms (designed with gently tapered side slopes), landscape screening using native shrubs, and 'ha-ha's' (an old English tradition which puts the roadway in a slight depression and out of view).
- f. Where existing roads must be widened to accommodate increased traffic volumes, care shall be taken to preserve mature roadside trees and other features which contribute to the road's character.
- g. Where drainage culverts are visible, the ends shall be cut off to follow

- the contour of the surrounding grade and/or covered with stone.
- h. Guardrails shall be constructed of wood or self-oxidized steel to avoid a harsh industrialized appearance.
12. Common Driveways. Common driveways are allowed and encouraged where appropriate to access individual lots. The following design and construction standards shall apply:
 - a. The maximum length shall not exceed 1000 feet.
 - b. All common driveways in excess of 500 feet shall contain at least one 10 foot by 30 foot turnout. The exact location shall be determined by the Planning Board with the review of the Fire Department.
 - c. The common driveway shall have a minimum 25 foot right of way (ROW) for up to 2 lots or dwelling units, and a minimum 50 foot ROW for over 2 lots or dwelling units.
 - d. The travel way shall be 12 feet wide with 2 foot graded and grassed shoulders, and shall be located as close as possible to ROW centerline.
 - e. The travel way shall be constructed of a minimum of 12 inches of gravel.
 - f. Drainage ditches and culverts shall be provided as necessary.
 13. Trails.
 - a. Trail improvements shall demonstrate adherence to principles of quality trail design.
 - b. Trails shall have a vertical clearance of not less than 10 feet.
 - c. The width of the trail surface may vary depending upon type of use to be accommodated, but in no case shall it be less than 3 feet or greater than 6 feet.
 - d. No trail shall be designed with the intent to accommodate motorized vehicles.
 - e. Trails except for points of access shall be no less than 50 feet from parcel boundary.
 14. Mowing. Any portion of the designated open space not under cultivation which is comprised of open field or pasture shall be mowed at least once annually.
 15. Open Space Contiguity. Reasonable efforts shall be made to locate designated open space adjacent to existing undeveloped land to form a continuous integrated open space system according to local or regional open space plan if any. At least 75% of designated open space shall be contiguous.
 16. Shared Subsurface Disposal Systems. Shared subsurface disposal systems may be permitted in designated open space provided that an alternative location be set aside for future replacement and the requirements of the Maine State Plumbing Code are met, including appropriate provisions for legal obligations related to maintenance and replacement.
 17. Underground Utilities. All utilities shall be installed underground unless specifically waived by the Planning Board. Transformer boxes, pumping stations and meters shall be located so as not to be unsightly or hazardous to the public.

18. Phosphorous Export. When a proposed subdivision is within the direct watershed of a Great Pond , the applicant shall make provisions to limit the export of phosphorus from the site following completion of the development, consistent with the maximum allowable phosphorus standard from Maine Department of Environmental Protection's "Phosphorus Control in Lake Watersheds: A Technical Guide to Evaluating New Development".
19. Active Recreation. Active recreation requires equipment and takes place at prescribed sites and includes tennis and other court games, swimming, baseball and other field sports and playground activities. Active recreation shall be limited to one site, can encompass no more than one acre of the designated open space and must be screened from view in rural districts or areas except as noted further in this subsection. Any building associated with the active recreation site is limited to 400 square feet. When open space subdivisions are located in the High Density Residential, Medium Density Residential, Low Density Residential, Mixed Use, or Industrial District(s) with zoning district density equal to or greater than 3 dwelling units per acre 25% of the designated open space up to a maximum of 3 acres can be used for active recreation including ball fields and total building footprint is limited to 1000 square feet.
20. Future Subdivision. When a subdivision will not utilize the entire parcel and there is a potential for future subdivision the total number of initial lots and future lots shall be provided and an area where future lots will be located and remaining area where protected open space will be designated shall be delineated according to the requirements for open space subdivisions. Once an initial subdivision has been approved the number of future lots and delineated areas of future development and future protected open space cannot be altered. Lot sizes can be changed within the future development area.

I. Open Space Ownership, Use, and Maintenance

The Designated Open Space created by the subdivision shall be:

1. Shown on the plat plan with the following notation: "Designated Open Space shall not be further subdivided or used for future building lots.
2. Shown on the plat plan including boundaries of Designated Open Space areas, active recreation area if any, agricultural area, and naturally, undisturbed vegetated areas and marked in the field with signage approved by the Planning Board to distinguish these areas from private property.
3. Accessible to the owners or residents of the development, subject to any necessary limitations in connection with the uses of the land (e.g., farming), which may be permitted.
4. Uses. Limited to uses for passive recreation, or other passive outdoor activities, agriculture, forest management or individual or group septic systems, and for preserving

the natural features of the site except as noted in section 12-36.H.15. Potential uses (e.g., farming) may be by the subdivider, owners or residents, or a lessee. The use of any open space may be further limited or controlled at the time of final subdivision approval as necessary to protect adjacent properties.

5. Management Plan. Managed according to a management plan for the designated open space and facilities that's approved by the Planning Board, which includes the following:

- a. Identifies the entity assuming responsibility for stewardship and management of the designated open space, including regular inspections to confirm continued compliance with the terms of the subdivision approval and conservation easement or deed restrictions.
- b. Includes detailed standards and schedules for maintenance of the designated open space, including maintenance of vegetation.
- c. Allows for municipal maintenance in the event that the maintenance specified under the agreement is not completed and recovery of costs incurred from the designated management entity or the owners of the designated open space within the subdivision.
- d. Provides that any amendments to the plan shall be reviewed and approved by the Planning Board.
- e. Prior to the commencement of any timber harvesting a forest management plan defined by Title 36 MRSA section 573.3-A shall be submitted to the Planning Board. The plan must be prepared by a licensed professional forester or a landowner and be reviewed and certified by a professional forester .

6. Ownership. Owned, preserved, and maintained as required by this section by any of the following mechanisms or combinations thereof:

- a. Dedication of open space to the Town or a suitable land trust, if either is willing to accept the dedication.
- b. Dedication of development rights of open space to a suitable land trust with ownership by a private individual or homeowners association.
- c. Ownership of the open space by a homeowners' association which assumes full responsibility for its maintenance with open space protection deed restrictions enforceable by any landowner in the subdivision, any owner of separate land parcels abutting the open space, or the municipality.
- d. Ownership by a private individual with open space protection deed restrictions enforceable by any land owner within the subdivision, any owner of separate land parcels abutting the open space, or the municipality. This option may apply only if open space is part of an existing farm, working or not, if there is a future intent to farm by the owner and no land trust is willing to accept dedication of development rights of the open space.

7. Homeowner's Association. Controlled by a homeowners association in the event ownership options per sections 12-36.I.6.a, b and d are not exercised. If a homeowners' association (association) is to be formed it shall be incorporated by the developer prior to final subdivision approval. Covenants for mandatory membership in the association shall be approved by the Planning Board and included in the deed for each lot or unit. 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 shall also be subject to Planning Board approval. The association's documents shall specify that:

- a. The association shall have the responsibility of maintaining the designated open space and other private facilities dedicated to the use in common by the development's resident.
- b. The association shall levy annual charges against all property owners to defray the expenses, if any, connected with maintenance of the common open spaces and facilities.
- c. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
- d. The developer shall maintain control of designated open spaces and facilities and be responsible for their maintenance until at least 51% of the development lots or units have been conveyed, with evidence of such completion and sales submitted to and approved by the Planning Board.

8. Prior to final approval by the Planning Board the applicant shall submit for review by the municipal attorney any restrictive covenants, conservation easement, or other legal agreements proposed for use in the open space subdivision. The municipal attorney shall advise the Planning Board of the adequacy of such legal provisions. In accordance with Section 12-12.B, the applicant shall pay all associated costs of the legal review.

ARTICLE 11 – PERFORMANCE GUARANTEES

Sec. 12-37. 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. 12-37A. 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; Ord. No. 5-2010, 11-8-10)