

**SUBDIVISION ORDINANCE**  
**of the**  
**TOWN OF CRANBERRY ISLES**  
Ordinance approved June 6, 1988  
(repealed ordinance of Nov. 1972)  
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# **SUBDIVISION REGULATIONS OF THE TOWN OF CRANBERRY ISLES, MAINE**

## **SECTION 1. BASIC PROVISIONS**

### **A. Authority**

These regulations have been prepared in accordance with the provisions of the State of Maine laws Title 30, M.R.S.A., Section 4956.

### **B. Purpose**

The purpose of these regulations shall be to encourage the wise and harmonious development of the land encompassed by the town: to insure the health, safety, and welfare of the people of the town; to prevent any unsound development of land by reason of improper or inadequate water supply, drainage, sewer disposal, or accessibility by road; to protect and preserve the natural beauty of the islands and to provide for the orderly development of a sound and stable community.

### **C. Administration**

1. The Planning Board for the Town of Cranberry Isles, hereinafter called the Board, shall administer this ordinance.

2. The provisions of this ordinance shall apply to all of the land area of all subdivisions, as defined, located in the Town of Cranberry Isles.

3. The Planning Board shall have the authority to adopt such forms as may be necessary or appropriate for the proper administration of this subdivision ordinance.

### **D. Effective Date**

The ordinance shall take effect upon enactment by a Town Meeting.

### **E. Validity and Separability and Conflict with Other Ordinances**

1. Validity and Separability - Should any section or provision of this ordinance be declared by any court to be invalid, such decisions shall not invalidate any other section or provision of this ordinance.

2. Conflict with Other Ordinances - Whenever the requirements of this ordinance are inconsistent with the requirements of any other ordinance, code, or statute, the more restrictive requirements shall apply.

### **F. Amendments**

This ordinance may be amended by a majority vote at a town meeting.

## **SECTION II. DEFINITIONS**

Subdivision - The division of a tract or parcel of land into three or more lots within any five-year period, which period begins after September 22, 1971, whether accomplished by sale, lease, development, buildings, or otherwise provided that a division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption, unless the intent of such gift is to avoid the objectives of this ordinance, or by transfer of any interest in land to the owner of land abutting thereon, shall not be considered to create a lot or lots for the purpose of this ordinance.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first two lots and the next dividing of either of said first two lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both such dividings are accomplished by a subdivider who shall have retained one of such lots for his own use as a single family residence for a period of at least five years prior to such second dividing. Lots of forty or more acres shall not be counted as lots.

For the purpose of this ordinance, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands 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.

The term subdivision shall include the subdivision of land for nonresidential purposes, mobile home parks, camp grounds, condominiums, and the resubdivision of land.

Subdivision, Major - Any subdivision containing more than four (4) lots, or any subdivision requiring any new public street extension, or the extension of municipal facilities.

Subdivision, Minor - A subdivision containing not more than four (4) lots.

Adequate - Refer to Sufficient.

Alteration - A structural change, rearrangement, change of location, or addition to a building or structure other than repairs and modification in building equipment whether horizontally or vertically, involving more than a three hundred (300) square foot increase in overall floor space or bulk of the building or structure at any time or in total since the effective date of the ordinance.

Appropriate - Refer to Sufficient.

**Building** - Any structure having a roof or partial roof supported by columns or walls used for shelter or enclosure of persons, animals, goods, or property of any kind.

**Commenced** - Means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings or any work beyond the stage of excavation. Permanent construction does not include land preparation; nor does it include the installation of streets and/or walkways; nor does it include excavation or erection of temporary forms; nor does it include the installation of accessory buildings.

**Commercial** - Any business, housed in a permanent structure, engaging primarily in the sale of goods or services to the consumer for direct consumption and/or use and/or resale, excluding home occupations.

**Complete Application** - An application shall be considered complete upon submission of the required fee and all information required by this ordinance for a Final Plan, or by a vote by the Board to waive the submission of required information.

**Comprehensive Plan or Policy Statement** - Any part or element of the overall plan or policy for development of the municipality as defined in Title 30, M.R.S.A., Section 4961.

**Contiguous Lots** - Lots which adjoin at any Line, a point on a line, or are separated at any point by a body of water less than fifteen feet wide.

**Developed Area** - Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, etc..

**Dwelling Unit** - A room or group of rooms designed and equipped exclusively for use as living quarters for one family including provisions for living, cooking, and eating.

**Easement** - The authorization of a property owner for the use by another, and for a specified purpose, of any designated part of his property.

**Final Plan** - The final Drawings on which the applicant's plan of subdivision is presented to the Board for approval and which, if approved, may be recorded at the Registry of Deeds.

**Industrial** - The assembling, fabrication, finishing, manufacturing, packaging, or processing of goods or the extraction of minerals.

**Institutional** - A building devoted to public, governmental, educational, charitable, medical, or similar purpose.

**Lodging Unit** - A dwelling or part thereof, in which sleeping accommodations are furnished and meals or other services may be furnished by the owner or operator for compensation to more than three (3) individuals other than a member of the family. Lodging units shall include bed and breakfast, inn, boarding house, or rooming house. A structure which is used as a hotel or motel and licensed by the State to accept transients shall be considered as a commercial establishment.

Multiple Family Dwelling - A building having three or more dwelling units.

100 Year Flood - The highest level of flood that, on the average, is likely to occur once every 100 years (that has a one percent chance of occurring [occurring] in any year).

Official Submittal Date - The date upon which a complete application has been submitted to the Board.

Persons - Any person, firm, association, partnership, corporation, municipal or other local governmental entity, quasi municipal entity, state agency, educational or charitable organization or institution or other legal entity.

Planning Board - the Planing Board of the Town of Cranberry Isles, created under Title 30, M.R.S.A., section 4952, by unanimous [unanimous] vote at a special town meeting August 1, 1972.

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

Recording Plan - A copy of the Final Plan which is recorded at the Registry of Deeds.

Residential Dwelling Unit - A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one (1) family or person. The term shall include mobile or manufactured homes.

Resubdivision - Any change in the plan of an approved subdivision including land transactions by the subdivider not indicated on the approved plan.

Retail - The sale of goods to the ultimate consumer for direct use and consumption and not for resale.

Road - A vehicular way over 500 feet in length or a vehicular way serving more than one principal structure or more than one lot upon which dwellings could be built [be built].

Shoreline Boundary - That line where terrestrial vegetation and soil ends and aquatic vegetation or shore material (such as ledge, rocks, stones, pebbles, or sand) begins.

Structure - Anything constructed, erected, or placed except a boundary wall or fence, the use of which requires location on the ground or attachment to something on the ground including, but not limited to buildings, mobile homes, recreational vehicles, piers and floats.

Subdivision - As previously defined in Section 11 [II].

Sufficient - The term shall mean to do as much as needed to address any and all existing and/or potential negative impacts resulting from the proposed subdivision. The term "Sufficient" shall include the terms "adequate", "suitable", and "appropriate". In instances where there exists questions as to how much is needed, the subdivider and/or

the Board may request a written determination from a consultant licensed in the State of Maine in the appropriate field to identify the sufficient actions needed at the subdivider's expense.

Suitable - Refer to Sufficient.

### **SECTION III. PRE-APPLICATION REVIEW**

#### **A. Procedure**

Before submitting a formal application for approval, the applicant or his agent shall appear before the Planning Board to discuss the proposed development. A sketch plan should be presented for information review, and arrangements made for an inspection of the site with the Planning Board. Also at this time the Board will classify the sketch plan into one of two categories as defined herein: Minor Subdivision / Major Subdivision. If classified as a Minor Subdivision the subdivider shall then comply with the procedure outlined in SECTION IV of this ordinance. If classified as a Major Subdivision the subdivider shall comply with procedures outlined in SECTION V and SECTION VI of this ordinance.

#### **B. Submission**

The Pre-application Sketch Plan shall show, in simple sketch form, the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a freehand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. The Sketch Plan shall be accompanied by a copy of the municipal tax map of the area showing the outline of the proposed subdivision.

#### **C. Contour Interval and On-Site Inspection**

Within thirty days, the Board shall determine and inform the applicant in writing of the required contour interval, specific requirements for the Preliminary Plot Plan submission, and hold an on-site inspection of the property.

#### **D. Rights Not Vested**

The submittal or review of the Pre-Application Sketch Plan 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., subsection 302.

#### **E. Ownership**

A copy of the deed or binding Purchase and Sales Agreement or option to purchase showing ownership of the proposed subdivision shall be submitted.

### **SECTION IV. REVIEW AND APPROVAL OF MINOR SUBDIVISION**

#### **A. General**

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

## B. Procedure

1. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Final Plan at least fourteen (14) days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Final Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board.
2. All applications for Plan approval for Minor Subdivisions shall be accompanied by a \$50.00 application fee and an additional \$50.00 per lot or dwelling unit, payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification. The Planning Board reserves the right to obtain an independent evaluation of a proposed development, to assist them in making the necessary findings of fact. If the Planning Board deems such study necessary, it will request a reasonable additional sum from the applicant to defray the cost of such study or studies. Any funds not utilized for consultant studies will be returned to the developer.
3. The subdivider, or his agent, shall attend the meeting of the Planning Board to discuss the Final Plan.
4. The time of submission of the Final Plan shall be as defined in SECTION II, DEFINITIONS, Official Submittal Date.
5. The Planning Board shall, within sixty (60) days from the date of submission, approve, modify and approve, or disapprove the Final Plan. The Board shall specify in writing its reasons for any such modification or disapproval. If the Board fails to take action within sixty (60) days as specified above, the Final Plan shall be deemed disapproved.

## C. Submissions

The subdivision plan for a Minor Subdivision shall consist of two stable based transparent originals and four copies of one or more maps or drawings drawn to a scale of not more than one hundred (100) feet to the inch, and the size of the sheets shall be at least 8½ x 11 inches, but no larger than 24 x 36 inches in size. Such sheets shall have a margin of two (2) inches outside of the border lines on the left side for binding and a one (1) inch margin outside the border along the remaining sides. Space shall be reserved thereon for endorsement by all appropriate agencies. The application for approval of a Minor Subdivision shall include all the information presented on the Sketch Plan plus the following:

1. A copy of covenants or deed restrictions as are intended to cover all or part of the tract.
2. An actual field survey of the boundary lines of the tract, giving complete descriptive bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by permanent markers as herein required, and shall be referenced as shown on the Plan.
3. A copy of that portion of the County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils that are generally unsuitable for the uses proposed, the Board



may require the submittal of a report by a Registered Soil Scientist indicating the suitability of soil conditions for those uses.

4. All on-site sewerage and water supply facilities shall be shown designed to meet the minimum specifications of this ordinance and all pertinent State and local ordinances. Compliance shall be stated on the Plan and signed by a licenced [licensed] engineer.

5. Proposed name of the subdivision or identifying title, and the name of the Municipality in which it is located.

6. The date, north point, graphic map scale, name and address of the owner of record and subdivider, and the names of adjoining property owners.

7. A soil erosion and sediment control plan containing the endorsement of the Hancock County Soil Conservation District or the Maine Soil and Water Conservation Commission.

## **SECTION V. PRELIMINARY PLAN FOR A MAJOR SUBDIVISION**

### **A. Procedure**

1. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a Preliminary Plan at least fourteen (14) days prior to a scheduled meeting of the Board. Failure to do so shall require resubmission of the Sketch Plan to the Board. The Preliminary Plan shall approximate the layout shown on the Sketch Plan, plus the specific requirements checked by the Planning Board on the application.

2. All applications for Preliminary Plan approval for a subdivision shall be accompanied by a \$50.00 application fee and an additional \$50.00 per lot or dwelling unit, payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee shall be required to cover the costs of advertising and postal notification. The Planning Board reserves the right to obtain an independent evaluation of a proposed development, to assist them in making the necessary findings of fact. If the Planning Board deems such study necessary, it will request a reasonable additional sum from the applicant to defray the cost of such study or studies. Any funds not utilized for consultant studies will be returned to the developer.

3. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.

4. The subdivider shall certify to the Board that all owners of abutting property have been notified that an application for subdivision approval has been submitted to the Board.

5. Within thirty days of receipt of Preliminary Plan application form and fee, the Board shall notify the applicant in writing,

if the application is complete, or what additional submissions are required for a complete application.

6. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of receipt of a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the subdivider, make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan. The Board shall specify in writing on the four copies of the Preliminary Plan its findings of fact and reasons for any conditions or denial. One copy shall be returned to the subdivider, one retained by the Planning Board, one forwarded to the Municipal Officers, and one forwarded to the Code Enforcement Officer.

7. When granting approval to a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:

- a. The specific changes which it will require in the Final Plan;
- b. The character and extent of the required improvements for which waivers may have been requested and which in the Board's opinion may be waived without jeopardy to the public health, safety, and general welfare; and
- c. The amount of improvement or performance bonds or guarantees which it will require as prerequisite [prerequisite] to the approval of the Final Plan.

8. 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 of the Board upon fulfillment of the requirements of this ordinance and the conditions of the preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

#### B. Submissions

1. Location Map. The Preliminary Plan shall be accompanied by a Location Map drawn to a scale adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The Location Map shall show:

- a. Existing subdivisions in the proximity of the proposed subdivision.
- b. Locations and names of existing and proposed streets.
- c. Boundaries and designations of zoning districts.

d. 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 holding.

e. The number of acres within the proposed subdivision and existing easements and rights of ways.

2. Preliminary Plan. The Preliminary Plan shall be submitted in four copies of one or more maps or drawings which 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 one hundred feet to the inch. The Board may allow plans for subdivisions containing more than seventy-five acres to be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary detail can easily be read. In addition, one copy of the Plan(s) reduced to a size of 8½ x 11 inches shall be mailed to each Board member no less than seven (7) days prior to the meeting. The following information shall either be shown on the Preliminary Plan or accompany [accompany] the application for preliminary approval in conjunction with any specific requirements checked by the Planning Board on the application:

a. Proposed name of the subdivision and the name of the municipality in which it is located, plus lot numbers.

b. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by permanent markers. The plan shall indicate the type of marker set or found at each lot corner.

c. A copy of the deed from which the survey was based. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances [encumbrances] currently affecting the property.

d. A copy of any covenants or deed restrictions intended to cover all or part of the lots in the subdivision, including road maintenance and snow removal agreements.

e. Contour lines at the interval specified by the Planning Board showing elevations in relation to Mean Sea Level.

f. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, vegetative cover type, shoreline boundaries, and other essential existing features.

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

1. Overboard discharge sewage disposal systems shall not be permitted for new systems. Overboard discharge sewer dis-

posal systems shall not be permitted for an existing subsurface sewage disposal system unless site conditions do not permit any acceptable alternative.

2. If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil and groundwater conditions, depth of maximum groundwater level, location and results of percolation tests must be included. If the soil conditions are suitable for subsurface disposal the application shall be accompanied by a certification from a qualified soil scientist or a registered engineer that the soils are suited to the type of sewage disposal system proposed. A map showing the location of all test pits dug on the site shall be submitted.

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

i. The date the Plan was prepared, magnetic north point, graphic map scale, names and addresses of the owner of record, sub-divider, and individual or company who prepared the plan.

j. The names and addresses of owners of record of adjacent property, including any property directly across an existing road from the subdivision.

k. The location of any zoning boundaries affecting the subdivision.

l. Location of existing and proposed public and private utilities, electric lines, water and wells to include those on abutting property [property].

m. Existing sanitation to include that on abutting property, description of method and location of proposed sanitation, and description, place, and location of other means of sewage disposal with evidence of soil suitability (seepage tests).

n. The location, names, and present widths of existing and proposed streets, easements, building lines, parks and other open spaces on or adjacent to the subdivision.

o. The proposed lot lines with dimensions and lot areas.

p. The location of any open space to be preserved and an indication of its improvement and management.

q. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.

r. A soil erosion and sedimentation control plan endorsed by the County Soil and Water Conservation District may be required by the Planning Board.

s. 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 shall be delineated on the plan.

t. A copy of that portion of the County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for the uses proposed, the Board may require the submittal of a report by a Registered Soil Scientist indicating the suitability of soil conditions for those uses.

## **SECTION VI. ASSURANCE OF COMPLIANCE**

To assure that the subdivision complies with the Subdivision Ordinance, in addition to the Preliminary Plan, the Planning Board may contract outside services at the subdivider's expense. Such services may include, but not be limited to, clerical costs, consulting engineering fees, architectural fees, attorney fees, recording fees, and appraisal fees.

## **SECTION VII. NOTIFICATION**

The Planning Board shall notify the subdivider in writing within thirty (30) days after a plan is submitted of the vote of the Board on each preliminary map, and of conditions voted, and shall transmit to the subdivider with the aforesaid notice, one copy of each drawing or data sheet approved, with the conditions if any were voted, endorsed on each drawing or data sheet. The Planning Board shall not approve any subdivision until satisfied that all applicable State and Federal laws have been or will be complied with. The Planning Board shall, before final approval or disapproval of a Plan, hold a public hearing on such plan.

## **SECTION VIII. FINAL PLAN FOR A MAJOR SUBDIVISION**

### **A. Procedure**

1. The subdivider shall, within six (6) months after approval of the Preliminary Plan, file with the Planning Board an application for approval of the Final Subdivision Plan in the form described herein. If the Final Plan is not submitted to the Planning Board within six (6) months after approval of the Preliminary Plan, the Planning Board shall refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan.
2. The time of submission of the Final Plan shall be the official submittal date.
3. The subdivider, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
4. Prior to submittal of the Final Plan application, the following

approvals shall be obtained in writing, where appropriate:

- a. Maine Department of Human Services, if the subdivider proposes to provide a central water supply system.
- b. Maine Department of Human Services, if a centralized or shared subsurface sewage disposal system(s) is to be utilized.
- c. Maine Department of Environmental Protection, under the Site Location of Development Act, Alteration of Coastal Wetlands Act, Fresh Water Wetlands Act, Alteration of Streams and Rivers Act, or if a Wastewater Discharge License is needed.

5. A public hearing shall be held by the Planning Board within thirty (30) days after the issuance of a receipt for the submittal of a complete application. Notice of the hearing shall be provided to the applicant in writing and posted at least two times in the local newspaper, to include the date, time, and place, the date of the first publication to be at least seven days prior to the hearing.

[the following section paragraph is marked "delete"]

6. Before the Planning Board grants approval of the Final Plan, the subdivider shall file with the Municipal Treasurer a performance bond to cover the full cost of the required improvements. Any such bond shall be satisfactory to the Municipal Officers and municipal attorney as to form, sufficiency, manner of execution and surety. A period of one year from the date of final approval shall be set forth in the bond time within which required improvements must be completed. The bond may include an amount required for recreation land improvements as specified. The Planning Board shall determine the amount of the bond and so notify the applicant.

6. From the date of receipt of the Final Plan the Board shall have sixty (60) days plus the number of days until the next regular Board meeting to approve, modify and approve, or disapprove the Final Plan. The reasons for any modifications required or the grounds for disapproval shall be stated upon the records of the Planning Board and provided to the subdivider in writing.

#### B. Submissions

The Final Plan shall consist of one or more maps or drawings to a scale of not more than one hundred (100) feet to the inch. Plans for subdivisions containing more than seventy-five (75) acres may be drawn to a scale of not more than two hundred (200) feet to the inch. Plans shall be no larger than 24 x 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 thereon for endorsement by the Board. The subdivider shall submit two reproducible stable based transparent originals and four copies of the Final Plan. In addition, one copy of the Final Plan which may be reduced to a size of 8½ x 11 inches, and all accompanying information shall be mailed to each Board member no less than seven (7) days prior to the meeting.

The application for approval of the Final Plan shall include the following information:

1. Proposed name of the subdivision and the name of the municipality in which it is located, and lot numbers.
2. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by permanent markers. The Plan shall indicate the type of marker set or found at each lot corner.
3. The number of acres within the proposed subdivision, location of property lines, existing shoreline boundary lines, existing buildings, watercourses, and other essential existing physical features.
4. Indication of the type of sewage disposal and water supply systems to be used in the subdivision.
5. The date the plan was prepared, magnetic and true north point, graphic map scale, names and addresses of the owner of record, subdivider, and individual or company who prepared the plan.
6. The location of any zoning boundaries affecting the subdivision.
7. The location and size of existing and proposed sewers, culverts, and drainage ways on or adjacent to the property to be subdivided.
8. The location, names, and present widths of existing and proposed streets, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and reproduced upon the ground. These lines shall be tied to the reference points previously established.
9. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers of cession to the municipality of all public open spaces shown on the Plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If open space 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 of cession shall be included.
10. A list of construction items that will be completed by the developer prior to the sale of lots shall be submitted.
11. Approval Space. Suitable space to record on the approved plat plan the date and conditions of approval, if any. This space shall conform to the following example:

Approved Town of Cranberry Isles

\_\_\_\_\_ Planning Board Chairman

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_ (space for all

\_\_\_\_\_ members to sign)

Date \_\_\_\_\_

Conditions \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C. Inspection of Required Improvements

1. If the appointed engineer or Code Enforcement Officer shall find, upon inspection of the improvements performed before the expiration date of the performance bond, that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider, he shall so report to the Municipal Officers and the Planning Board. The Municipal Officers shall then notify the subdivider and, if necessary, the bonding company, and take all necessary steps to preserve the municipality's rights under the bond. No plan shall be approved by the Planning Board as long as the subdivider is in default on the previously approved Plan.

2. If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the appointed engineer or Code Enforcement Officer that unforeseen [unforeseen] conditions make it necessary or preferable to modify the location or design of such requirement improvements, the Planning Board may authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements required by the Planning Board.

3. The applicant may be required to maintain all improvements and provide for snow removal.

D. Final Approval and Filing

1. Upon findings of fact and determination that all standards in Title 30, M.R.S.A. 4956, subsection 3, and this ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the Final Plan. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy shall be forwarded to the Code Enforcement Office. The approved Final Plan will not be considered in effect until said



Plan is filed with the Registry of Deeds and a certified copy received by the Planning Board.

2. If any aspect of the Board approval is conditional, the specific conditions shall be stated on the Final Plan prior to signing by the Board,

3. 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 the revised Final Plan is first submitted and the Board approves any modifications. The Board shall make findings that the revised plan meets the standards of Title 30, M.R.S.A. 4956, subsection 3, and this ordinance. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board may institute proceedings to correct the recording of the Plan.

4. The approval by the 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 Board shall require the Plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deeds and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.

#### E. Expiration of Permit

A permit granted under this ordinance shall expire if the structural work or change involved is not commenced within one (1) year of the date of issue. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Board shall become null and void.

### **SECTION IX. GENERAL REQUIREMENTS**

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

#### A. Conformance with Other Laws and Regulations

1. The proposed subdivision shall be in conformance with the Town's Comprehensive Plan and all pertinent local, State, and Federal ordinances, statutes, laws, and regulations. If the proposed subdivision meets the definition of subdivision as defined in the Site Location of Development Act, Title 38, M.R.S.A., Section 482, the subdivider must secure the approval of the Board of Environmental Protection and the Planning Board. When a proposed subdivision requires approval of the Planning Board and the Board of Environmental Protection, each review

may be conducted simultaneously. However, each review will be conducted independently, and the Planning Board may deny approval of the subdivision even though the Board of Environmental Protection has granted an approval under the provisions of the Site Location of Development Act.

#### B. Retention of Open Space and Natural or Historic Features

1. In any subdivision the Board may request the developer to provide between five and ten percent of his total area to open space in order to provide for the recreational needs of the occupants of the subdivision or to maintain the scenic or natural beauty of the area. In determining the need for open space the Board shall consider the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the needs identified in the municipal comprehensive plan or recreation plan for open space or recreation facilities in the neighborhood surrounding the subdivision; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development.
2. Land reserved for open space purposes shall be of a character, configuration and location suitable for the particular use intended. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and no less than twenty-five (25) feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
3. Reserved land acceptable to the Board and subdivider may be requested to be dedicated to the municipality.
4. If the proposed subdivision contains any identified historical or archeological sites, or any areas identified in the Comprehensive Plan or by the Maine Critical Areas Program as rare and irreplaceable natural areas, these areas shall be included in the open space, and suitably protected by appropriate covenants and management plans.
5. Where the proposed subdivision is located on a pond, stream, or shoreline, a portion of the waterfront area, when feasible, shall be included in the reserved land.
6. Any public rights of access to the shoreline of a body of water 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.
7. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees

(10" or more in diameter at a 4' height), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally significant areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.

#### C. Land Not Suitable for Development

The Planning Board shall not allow to be included in the calculations of lot area for the purpose of meeting the requirements of the Minimum Lot Size Law such portions of any proposed subdivision that:

1. Are situated below sea level (Maximum High Tide)
2. Are located on land which must be filled or drained or on land created by diverting a watercourse. In no instance shall the Board approve any part of a subdivision located on filled or drained wetlands.
3. Employs septic sewerage disposal which is located on soils rated poor or very poor by the Soil Guide for Land Use Planning in Maine.  
Wherever situated, in whole or in part, within 250 feet of the high water line of any pond or tidal waters, a proposed subdivision shall conform to the Shoreland Zoning Ordinance for the Town of Cranberry Isles, Maine.

#### D. Lots

1. Every lot in a subdivision shall have an area of at least one acre per single family dwelling, and have a frontage of at least 100 feet on any street and a frontage of at least 250 feet on any shore line measured along mean high water, if the lot is contiguous thereto. This provision shall not be deemed to prevent the development of lands which are not contiguous to road or to the shore but which have access thereto through a right-of-way. Multi-family dwellings shall have land area for each family unit, equivalent to that required of single family dwellings.
2. Lodging units and motels/hotels may be constructed and/or installed on parcels of land consisting of the aggregate of one acre per each individual lodging unit and/or dwelling unit.

Commercial activities serving or open to persons other than persons occupying the lodging unit, which are constructed or included as part of apartments, boarding houses, hotels, and motels shall require a minimum of one acre additional land for each separate commercial activity.

3. The lot width, depth, shape, and orientation, and the minimum building setback lines from streets, sidelines, or boundaries shall be appropriate for the location of the subdivision based on existing other land uses within the subdivision area and surrounding properties and consistent with other Town ordinances.

4. Depth and width of properties reserved or laid out for any purpose shall meet SECTION X. DESIGN STANDARDS to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.

5. Side-lot lines shall be substantially at right angles or radial to street lines.

6. Where a tract is subdivided into lots substantially larger than the minimum size required herein, the Board may require that roads and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in these standards.

7. All corners of individual lots shall be marked with concrete, stone, or iron pipe located in the ground.

#### E. Setback of Building

No part of any building constructed on any lot in the subdivision shall be:

1. Closer than 30 feet to any lot line.
2. Closer than 100 feet from any existing building on adjacent lot.
3. Closer than 60 feet from the center line of any street.

#### F. Easements

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

2. The Board may require easements for sewage, drainage, or other utilities from the appropriate utility authority as required.

#### G. Utilities

The size, type, and location of public utilities, such as street lights, electricity, telephones, etc., shall be installed in a manner acceptable to the appropriate utility and/or municipal official.

#### H. Dedication and Maintenance of Common Open Space and Services [Services]

1. All common land, facilities and property shall be owned jointly or in common by the owners of the dwelling units by means of a home-owners association or by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition and such association shall have the responsibility for the maintenance of the common property or facilities.

2. Further subdivision of the common land or its use for other than non-commercial recreation 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.

3. The common open space shall be shown on the Final Plan with appropriate [appropriate] notation on the plan to indicate that:

a. It shall not be used for future building lots; and

b. A part or all of the common open space may be dedicated for acceptance by the municipality.

4. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place.

#### I. Impact on Ground Water

When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

1. A map showing the basic soil types.

2. The depth to the water table at representative points throughout the subdivision.

3. Drainage conditions throughout the subdivision.

4. Data on the existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties.

5. An analysis and evaluation of the effect of the subdivision on groundwater 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, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, which ever is a shorter distance.

6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

#### J. Additional Requirements

1. The Planning Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable. In determining the need for landscaping (street trees,

ground cover, etc.), the Planning Board shall consider the needs identified in the municipal comprehensive plan; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development. Where such improvements are required, they shall be incorporated into the Final Plan and executed by the subdivider as construction of the subdivision progresses.

2. The Board shall consider the criteria set forth in the guidelines contained in the State of Maine's Subdivision Law, Title 30, M.R.S.A., Section 4956, as amended and shall, prior to granting approval, determine that the proposed subdivision will meet the criteria.

## **SECTION X. DESIGN STANDARDS**

### **A. Permanent Markers**

1. Permanent markers shall be set at all corners and angle points of the subdivision boundaries, and at all street intersections.

2. Markers shall be concrete, stone, or iron pipe, located in the ground and indicated on the Final Plan.

### **B. Off-Street Parking and Loading**

1. Off-street parking, either by means of unenclosed suitable

spaces each having a minimum area of 220 square feet plus necessary maneuvering space, or by enclosed garage space, shall be provided according to the following minimum requirements:

a. Dwelling units: Two (2) spaces for each dwelling unit.

b. Commercial establishments:

\* Restaurants, eating and drinking establishments: one parking space for every four (4) seats, plus one (1) space for every two (2) employees;

\* Retail store: One space for each two hundred (200) square feet of retail floor area, plus one space for every two (2) employees;

\* All other commercial establishments: One (1) space for each three hundred (300) square feet of floor area.

c. Theatres, Churches, and other public places of assembly: One space for each four seats.

d. Schools: One space for each four (4) employees.

e. Health Institutions: One parking space for every three (3) beds, plus one space for every two (2) employees.

f. Professional Offices and Public Buildings: One parking space for every two hundred (200) square feet of gross leasable area, exclusive of cellar and bulk storage.

g. Commercial Recreation Establishments: Minimum of thirty (30) parking spaces, or the number of spaces deemed appropriate by the Planning Board.

h. Industrial: One parking space for each 1.5 employees, based on the highest expected average employee occupancy, plus visitor and customer parking to meet the needs of the specific operations.

i. Marinas: Minimum of twenty (20) parking spaces, plus one space for each docking and mooring space.

2. Parking Lot Design Criteria:

a. Vehicular Entrance and Exit: Entrances and exits should be clearly identified by the use of signs, curb cuts, and landscaping.

b. Parking:

\* Parking areas shall be designed to permit each motor vehicle to proceed to and from the parking space provided for it without requiring the moving of any other motor vehicles.

\* All parking spaces and access drives shall be at least five (5) feet from any side or rear lot line, except for the additional requirements in buffer yards.

Parking stalls and aisle layout shall conform to the following standards:

PARKING  
ANGLE STALL  
WIDTH SKEW  
WIDTH STALL  
DEPTH AISLE  
WIDTH

90° 9'-0" - 18'-5" 24'-0"

60° 8'-6" 10'-5" 10'-0" 16'-0"

one way only

45° 8'-6" 12'-9" 17'-5" 12'-0"

one way only

30° 8'-6" 17'-0" 17'-0" 12'-0"

one way only

Excluding residential dwelling units -

\* In paved parking areas painted stripes shall be used to delineate stalls. Stripes should be a minimum of four (4) inches in width.\* Bumpers and/or wheel stops shall be provided where [where] overhang or parked cars might restrict traffic flow on adjacent through roads, restrict pedestrian movement on adjacent walkways, or damage landscape materials.

C. Roads

1. Roads shall be located, constructed, and maintained so that erosion is kept to a minimum. Adequate provisions shall be made to prevent soil erosion and sedimentation of surface waters to the maximum extent possible as defined by Maine Department of Transportation's Standards of Practices.

2. Additionally, all roads constructed shall conform to the following standards:

a. Road crossings of water courses shall be kept to the minimum number necessary.

b. Bottoms of culverts shall be a minimum of 12 inches and installed at streambed elevation.

c. All cut or filled banks and areas of exposed mineral soil shall be revegetated or otherwise stabilized as soon as possible.

d. When road crossings of water courses are to be used on unfrozen surface waters, bridges or culverts of adequate size and design shall be provided so as to support a Gross Vehicle Weight of 63,000 pounds.

e. The arrangement, character, extent, width, grade, and location of all roads shall provide for safe access and egress based on their relation to existing or planned roads to



topographical conditions, to public convenience and to safety, and their relation to the proposed use of the land to be served by such roads. Grades of roads shall conform as closely as possible to the original topography.

f. All roads within the subdivision shall be constructed according to design specification herein as overseen by the municipal road commissioner, appointed engineer, or agent:

Minimum width of right-of-way 66'  
Minimum width of pavement 20'  
Minimum grade 0.5%  
Maximum grade 6%  
Maximum grade at intersection 3% within 50' at intersection  
Minimum angle of intersection 60°  
Minimum width of shoulder 3'  
Minimum centerline radii on curves 200'  
Minimum tangent length between reverse curves 200'  
Minimum setback from shoreline boundary 75'  
Road Base (minimum) 24"  
Base (bank gravel) 18"  
Gravel surface course (screened gravel) 6"  
Bituminous paving 1½"  
Road crown (minimum) ¼" / 1'  
Sidewalks/walkways (minimum where required) 4'  
Base course (gravel) 12"  
Dead-end or cul-de-sac right-of-way  
Minimum width  
66'  
Length, not more than 1,000'  
Radii of turn-around at enclosed end of  
property line (minimum)  
80'  
pavement (minimum) 65'  
Property line radii at intersections (minimum) 10'  
Curb radii at intersections  
90° intersections  
25'  
Less than 90° intersections 30'

g. Road intersections and curves shall be so designed as to permit safe access and egress for both pedestrian [pedestrian] and vehicular traffic. That portion of any corner lot which is necessary to allow 25 foot sight lines between intersecting roads shall be cleared of all growth (except isolated trees) and obstructions above the level of three feet higher than the center line of the road. When necessary to achieve visibility, ground shall be excavated.

h. All dead-end streets shall be constructed to provide a cul-de-sac turn-around. If the subdivision covers only a portion of the subdivider's entire lot and the remaining portion is of sufficient size to be subdivided in the future and there has been no written statement by the developer not to further subdivide the remaining portion, the Board may require the reservation of a fifty (50) foot easement in line with the street to provide continuation of the road for future access.

## D. Sidewalks

When deemed necessary by the Board, sidewalks shall be installed at the expense of the subdivider where the subdivision abuts or fronts onto a major road, and at such locations to provide adequate safety for pedestrian use.

## E. Storm Water Management

1. Adequate provisions shall be made for disposal of all storm water generated within the subdivision, and any drained ground-water through a management system of swales, culverts, under-drains and/or storm drains. Storm water shall be detained on-site if possible or practicable.

a. The minimum pipe size for any storm drainage pipe shall be twelve inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two feet. Pipe shall be bedded in a fine granular material, containing no stones larger than 3 inches, lumps of clay, or organic matter, reaching a minimum of six inches below the bottom of the pipe extending to six inches above the top of the pipe.

b. Catch basins shall be installed when necessary and located at the curb line.

c. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials to reduce storm water velocity.

2. The storm water management system shall be designed to accommodate on-site drainage, taking into account existing conditions and approved or planned developments not yet built and shall include a surplus design capacity factor of 25% to address unplanned increases in runoff.

3. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The subdivider shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.

4. Adequate provision shall be made for surface drainage so that removal of surface waters will not adversely affect neighboring properties, downstream water quality, streets or roads within and outside of the subdivision, soil erosion, water course, or drainage way. The natural state of water courses, swales, flood-ways or rights-of-way shall be maintained as nearly as possible. If it is not possible to detain water on-site downstream improvements to the channel may be required of the subdivider to prevent flooding caused by the subdivider. Design period is 50-year storm.

5. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the Town allowing maintenance and improvement of the system.
6. Where soils require a subsurface drainage system, the drains shall be installed and maintained separately from the storm water drainage system.

#### F. Water Supply

1. A public water supply system shall be installed at the expense of the subdivider, or if it is proven not feasible by the sub-divider, the Board may allow individual wells to be used, which shall be installed at the expense of the subdivider on lots containing dwellings erected by the subdivider or his agent.
2. The Planning Board may require that storage be provided to meet fire protection needs of such a nature as the municipal fire chief deems necessary to provide for appropriate fire protection.
3. Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only if it is not economically or technically feasible to develop other groundwater sources.
4. If a central water supply system is provided by the subdivider, location and protection of the source, and design, construction, and operation of the distribution system and appurtenances and treatment facilities shall conform to the recommendations included in the "Manual for Evaluating Public Drinking Water Supplies" , Public Health Service No. 1180 (1969).

#### G. Sewage Disposal

A sanitary sewer system shall be installed at the expense of the subdivider, or if service to each lot by a sanitary sewer system is proven not feasible by the subdivider, the Board may allow individual septic tanks to be used, which shall be installed at the expense of the subdivider on lots containing dwellings erected by the subdivider or his agent. In no instance shall a septic disposal system be allowed in soils rated poor or very poor for such purpose by the Soil Suitability Guide for Land Use Planning in Maine or on lots below the minimum size shown for particular soil types in Appendix 1 of "State of Maine Plumbing Code, Part II, Private Sewerage Disposal Regulations", as amended.

#### H. Height Restrictions

No principal or accessory structure shall exceed forty (40) feet in height above average ground level, except for steeples, silos [silos], detached barns, water towers, transmission towers.

## **SECTION XI. PERFORMANCE GUARANTEES**

### **A. Types of Guarantees**

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

1. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers)

2. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers; or

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

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Municipal Officers after consulting an attorney at law.

### **B. Contents of Guarantee**

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

### **C. 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 subdivider, and the procedures for collection by the municipality. The bond documents shall specifically reference the subdivision for which approval is sought.

### **D. Letter of Credit**

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

## E. Conditional Agreement

The board, at its discretion may provide for the subdivider to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the Final Plan on the condition that no more than two lots may be sold or built upon until either:

1. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with this ordinance and the regulations of the appropriate utilities; or
2. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the Final Plan which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained in SECTION XI, 6.

## F. Phasing of Development

The Board may approve the 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.

## G. Release of Guarantee

Prior to release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of a licensed engineer chosen by the Town and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

## H. Default

If, upon inspection, the engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, he shall so report in writing to the Code Enforcement Officer, the Municipal Officers, the Board, and the subdivider or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

## I. Private Roads

Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan:

"All roads in this subdivision are private roads to be maintained by the developer or the lot owners and shall not be maintained by the Town".

## J. Improvements Guaranteed

Performance guarantees shall be tendered for all improvements required by SECTION XIII of this ordinance, as well as any other improvements required by the Board.

## **SECTION XII. ENFORCEMENT**

### A. Inspection of Required Improvements

1. At least five (5) days prior to commencing each major phase of construction of required improvements, the subdivider or agent shall notify the Code Enforcement Officer in writing the time when he proposes to commence construction of such improvements, so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.

2. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, he shall so report in writing to the Municipal Officers, Planning Board, and the subdivider or agent. The Municipal Officers shall take any steps necessary to preserve the municipality's rights.

3. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the subdivider shall obtain permission in writing to modify the plans from the Planning Board.

4. Prior to the sale of any lot, the subdivider shall provide the Board with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.

5. 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.

6. The subdivider, agent, or property owner shall be required to maintain all improvements and provide for snow removal.

#### B. Violations and Enforcement

1. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with this ordinance.

2. No person, firm, corporation, or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.

3. No person, firm, corporation, or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plaa as a separate lot.

4. Any violation of this Ordinance shall "be dealt with pursuant to the provisions of Title 30, Section 4966, M.R.S.A..

5. No public utility, or any utility of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.

6. Development of a subdivision without Board approval shall be a violation of the law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in this ordinance and recorded in the Registry of Deeds.

7. No lot in a subdivision may be sold, leased, or otherwise conveyed before the road upon which the lot front [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.

### **SECTION XIII. WAIVERS**

A. Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards such as contour intervals and parking standards unless otherwise indicated in this ordinance, to permit a more practical and economical development, provided 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 Official Map, the Comprehensive Plan, the Shorelands Ordinance, or this ordinance.

B. Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety, and 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.

C. In granting waivers to any of these standards in accordance with SECTION XIII, A., and SECTION XIII, B., the Board shall require such conditions as will assure the objectives of the ordinance are met.

#### **SECTION XIV. APPEALS**

An appeal from a decision of the Planning Board regarding the interpretation of the Ordinance may be taken to the Board of Appeals in accordance with Title 30, M.R.S.A., Chapter 213, Section 2441. Appeals on other issues including issue of fact shall be taken directly to the Maine Superior Court pursuant to Rule 80B of the Maine Rules of Court Procedure.

#### **SECTION XV. CERTIFICATION OF COMPLIANCE**

No parcel, lot, or structure shall be conveyed, leased, or occupied, or offered for sale, conveyance, lease, or occupancy without certification from the Planning Board that all the terms of the subdivision's approval have been complied with by the subdivider.