

SUBDIVISION ORDINANCE OF THE TOWN OF SUMNER

SECTION I. PURPOSE

The purpose of this subdivision ordinance is to assure the comfort, convenience, health and welfare of the people of the Town of Sumner to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Sumner, Maine, the Planning Board shall consider the following criteria and, before granting approval, shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the guidelines of Title 30-A, M.R.S.A. Section 4404, subsection 3, as amended.

Review Criteria

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of land above sea level and its relation to the flood plains;
 - B. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable state and local health and water resource rules and regulations;
2. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed;
6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
7. Municipal solid waste and sewage disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste and sewage, if municipal services are to be utilized;
8. Aesthetic, cultural and natural values. The proposed subdivision 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;

9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or 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;
10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;
11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake within 250 feet of wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of the body of water.
- A. 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.
- (1) 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.
- (2) The frontage and setback provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;
12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
13. Flood areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat 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;
14. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified 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;
15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified 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;
16. Storm water. The proposed subdivision will provide for adequate storm water management;
17. Spaghetti-lots 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 the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1; and

18. Lake phosphorous concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorous concentration during the construction phase and life of the proposed subdivision.

SECTION II. AUTHORITY AND ADMINISTRATION

A. Authority

1. This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution and Title 30-A, M.R.S.A., Section 3001.
2. This Ordinance shall be known and cited as the "Subdivision Ordinance for the Municipality of Sumner, Maine".
3. Upon adoption of this Ordinance, all previous Subdivision Regulations or Ordinances shall be repealed.

B. Administration

1. This Ordinance shall be administered by the Planning Board for the Town of Sumner, Maine, hereafter referred to as the "Board".
2. The provisions of this Ordinance shall apply to all of the land area of all proposed subdivisions, as defined, located in the Town of Sumner, Maine.
3. No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not received Board approval and recorded in the Registry of Deeds. No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision which has not received Board approval and recorded in the Registry of Deeds. A Subdivision Plan recorded without Board approval shall be void. Any person violating any provision of this Ordinance shall be fined a minimum of \$100 and a maximum of \$2,500 for each violation.

SECTION III. DEFINITION OF A SUBDIVISION

A division of a tract or parcel of land into three or more lots, as defined by State Law, 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, or a gift to a municipality, unless the intent of that gift is to avoid the objectives of these regulations, 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 purposes of these regulations.

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 the first two lots, by whomever accomplished, unless otherwise exempted herein, shall be considered to create the third lot, unless both those dividings are accomplished by a subdivider who shall have retained one of the lots for his own use as a single-family residence or for open space land as defined in Title 36, M.R.S.A. Section 1102, for a period of at least five years prior to such second dividing. Lots of forty or more acres but less than 500 acres shall 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 located on opposite sides of a year-round maintained state or town road shall be considered each a separate tract or parcel of land. All contiguous land in the same ownership located on opposite sides of any other type of road shall be considered a single parcel.

The term subdivision shall also include developments where there are three (3) or more units involved, such as mobile home parks, multiple family dwellings, condominiums, shopping centers and industrial parks.

SECTION IV. PROCEDURES FOR SUBDIVISION REVIEW

A. Introduction

The subdivider's application for subdivision approval will not be considered complete until a Final Plan, based on a survey, has been submitted to the Planning Board. While a subdivider may submit a Final Plan and all related materials to the Board without any prior contact with the Board, the subdivider is strongly advised against doing this, as any potential problems may not be resolved within the Statutory time limits for reviewing completed applications, resulting in a negative decision of the Board, and unnecessary expenses to the subdivider for revising the application materials and possibly for surveying the land.

B. Pre-application Meeting and Submission of Sketch Plan

1. Prior to submitting an application for subdivision approval and the Preliminary Plan, the subdivider or his authorized agent should appear informally at a regular meeting of the Planning Board to discuss the proposed subdivision.

2. The subdivider may present to the Board, for informal review and comment, a sketch plan of the proposed subdivision. The sketch plan shall consist of a rough outline of the proposed subdivision, and may be a free-hand, penciled sketch of the parcel, showing the proposed layout of streets, lots, and other features which may be of assistance to the Board in making its determinations.

3. No binding commitments shall be made between the subdivider and the Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible and what is acceptable.

C. Inspection of the Site

In order for the Planning Board to be more fully informed about the site, the subdivider shall arrange an inspection of the site with the Planning Board, or an individual appointed by the Chairman to act as the Board's representative for the inspection. The on-site inspection may be conducted at or shortly after the time of submission of the sketch plan or preliminary plan.

D. Submission of a Preliminary Plan

Upon submission of a sketch plan, and following an on-site inspection of the site, the Planning Board will outline, by checking specific items on an application form (as detailed in Section VI. A. and B.), the specific requirements for Preliminary Plan submission. The Preliminary Plan shall be submitted to the Planning Board at a regularly scheduled meeting. The applicant shall submit four (4) copies of the Preliminary Plan and four (4) copies of the application for the proposed subdivision as detailed in

Section VI. A. and B. The Board shall issue a dated receipt to the applicant. Within thirty (30) days from the date of receipt, the Board shall notify the applicant in writing either that the Preliminary Plan and application are complete, or if incomplete, the specific additional material needed to make them complete. Specific requirements will vary according to the size and complexity of the subdivision proposal. In some instances, the Planning Board may waive the requirement for a Preliminary Plan, in which case the application form must be submitted with the Final Plan. Determination by the Board that the Preliminary Plan and Application are complete in no way commits or binds the Board as to the adequacy of the Plan to meet the criteria of Title 30-A, M.R.S.A., Section 4956, and the provision of this Ordinance are met.

E. Upon recent adoption of the Preliminary Plan, the Planning Board shall notify all abutters to the proposed subdivision that an application has been filed.

F. Application Fee

The following fee(s) shall be paid at the time of submission of any preliminary plan:

1. Review fee, \$30.00 per lot, building unit or dwelling unit, whichever is more.

2. Physical Inspection fee, \$10.00 per hour per participating Planning Board member (see Section IV. C.). To start upon leaving the Town Office, and to end upon returning to the Town Office. To be paid immediately following the physical inspection.

3. Review escrow account, \$50.00 per lot (or living unit for multiplex developments) deposited in an escrow account established by the Town, which monies may be used by the Board to pay for professional reviews and advice related to the developer's application as it deems necessary. The Board shall provide the applicant with notice of its intent to spend any portion of this account which notice shall specify the purpose for the proposed expenditures. Those monies deposited by the developer and not spent by the Planning Board in the course of its review shall be returned to the developer within thirty (30) days after the Board renders its final decision on the application.

4. The Board may hold a public hearing on the Preliminary Plan. Regulations for such a hearing shall be according to State Law as provided in Section VII.

5. The Board shall, within thirty (30) days of a public hearing, or within sixty (60) days of having received the completed Preliminary Plan, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in this Ordinance and in Title 30-A, M.R.S.A., Section 4404, and to preserve the public health, safety and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Board shall make a written finding of fact establishing that the Preliminary Plan does or does not meet the provisions of this Ordinance and Title 30-A, M.R.S.A., Section 4404. Approval of the Preliminary Plan in no way commits or binds the Board to approve the Final Plan.

SECTION V. FINAL PLAN

A. The applicant shall submit the original and three copies of the Final Plan to the Board at a regularly scheduled meeting, within six (6) months from the date of approval of the Preliminary Plan.

The Board shall issue a dated receipt to the applicant. The Final Plan shall include all the information requested in Section VI. B. and will also include all changes recommended by the Board in the approval of the Preliminary Plan. There shall be no other substantial changes between the Preliminary Plan and the Final Plan. The Final Plan shall be drawn in ink on linen or polyester film suitable for permanent recording in the Oxford County Registry of Deeds.

B. Application Fee. The following fee shall be paid at the time of submission of the Final Plan.

1. \$30.00 per lot, building unit or dwelling unit, whichever is more.

C. The Board has the option of holding a public hearing on the Final Plan. Regulations for such a hearing shall be according to State Law as provided in Section VII.

D. The Board shall, within thirty (30) days of a public hearing or within sixty (60) days of having received the completed Final Plan, if no hearing is held, or within such other time limit as may be mutually agreed to, deny or grant approval of the Final Plan or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in the Ordinance and in Title 30-A, M.R.S.A., Section 4404, and to preserve the public's health, safety and general welfare. In issuing its decision, the Board shall make a written finding of fact establishing that the Final Plan does or does not meet the provisions of this Ordinance and Title 30-A, M.R.S.A., Section 4404.

SECTION VI. SUBMISSION REQUIREMENTS

A. Application

The application form shall be furnished by the Board, filled out by the applicant and shall include the following information: (items marked with an "X" shall be required in all instances; items without an "X" may be required at the discretion of the Board.)

1. Name of and address of Owner.
2. Name of and address of Applicant (if other than Owner).
3. If Applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's registration.
4. Name of Applicant's authorized representative.
5. Name, address and number of Registered Professional Engineer, Land Surveyor or Planner who prepared the Plan.
6. Address to which all correspondence from the Planning Board should be sent.
7. What interest does the Applicant have in the parcel to be subdivided (option, land purchase contract, recorded Ownership, etc.)?
8. What interest does Applicant have in any property abutting parcel to be subdivided?
9. State whether the subdivision covers entire or contiguous holdings of Applicant.
10. Location of property: map and lot (from Assessor's office).
11. Location of property: book and page (from Registry of Deed).
12. Current zoning of property.
13. Acreage of parcel to be subdivided.
14. Proposed method of sewage disposal and the results of an on-site soils investigation for each lot.
15. Soils report for entire area.
16. Names and mailing addresses of property owners within 500 feet of the parcel to be subdivided.

X 17. Indicate the nature of any restrictive covenants to be placed on the deeds.

X 18. A statement of financial and technical capability.

B. Subdivision Plan

The Subdivision Plan shall be a map of the tract to be subdivided, certified by a Registered Land Surveyor and tied to established reference points. The plan shall not be less than 18" by 24" and shall be drawn to a scale of 1" equals not more than 100'. The Subdivision Plan shall include the following information: (items marked with an "X" shall be required in all instances; items without an "X" may be required at the discretion of the Board.)

Preliminary Plan	Final Plan	
<u>X</u>	<u>X</u>	1. Proposed name of Subdivision.
<u>X</u>	<u>X</u>	2. Lot numbers
<u>X</u>	<u>X</u>	3. Date, north point, graphic map scale (show on plan)
<u>X</u>	-	4. Proposed lot lines with approximate dimensions and lot areas and total area of land to be subdivided.
-	<u>X</u>	5. Proposed lot lines with dimensions, bearings, deflection angles, radii and central angles sufficient to reproduce any line on the ground and lot areas and total area of land to be subdivided.
<u>X</u>	-	6. Location of temporary markers to enable the Board to locate each lot readily and appraise the basic lot layout in the field.
-	<u>X</u>	7. Location of permanent markers, both natural and man-made.
<u>X</u>	<u>X</u>	8. Location of all parcels to be dedicated to public use and the condition of such dedication.
<u>X</u>	<u>X</u>	9. Names of abutting property owners and subdivisions. Reference to recorded subdivision plans of adjoining lands by book and page number.
<u>X</u>	<u>X</u>	10. Location of woodlands and areas subject to storm flooding.
<u>X</u>	<u>X</u>	11. Location of all required soils investigation test pits. (Test pits for subsurface sewage disposal systems shall be in the area where such a system would be likely to be placed.)
<u>X</u>	<u>X</u>	12. Location and size of existing buildings.
<u>X</u>	<u>X</u>	13. Suggested location of buildings, subsurface sewage disposal systems and wells.
<u>X</u>	<u>X</u>	14. Location of all natural features or site elements to be preserved.
<u>X</u>	<u>X</u>	15. Location of any existing watercourses and other essential existing physical features.
<u>X</u>	<u>X</u>	16. Location and size of any existing sewers and water mains and other utilities; location and size of culverts.
<u>X</u>	<u>X</u>	17. Location, names and widths of existing and proposed streets, highways, easements and rights-of-way.
<u>X</u>	<u>X</u>	18. Plan profiles and cross-sections for roadways, sidewalks and storm drainage facilities.

- 19. A soil erosion and sediment control plan for construction and for permanent control.
- 20. Contour lines at 20 foot intervals (or other intervals as specified by the Board).
- 21. Proposed uses of property.
- 22. Other information not indicated above as required by the Board.
- 23. Suitable space to record on the approved plan the date and conditions of approval, if any.

This space shall be similar to the following example:

Approved by the Town of Sumner Planning Board:

Signed:

Date:

Conditions:

SECTION VII. PUBLIC HEARING

The decision to hold a public hearing is discretionary, and in making its decision, the Board may consider the size and type of subdivision, the community impact and whether any written requests for such a hearing have been received. In the event that the Board determines to hold a public hearing on either the Preliminary Plan or the Final Plan of the proposed subdivision, it shall hold such public hearing within thirty (30) days of having notified the applicant in writing that a complete Subdivision Plan has been received and shall cause notice of the date, time and place of such hearing to be given to the subdivider, and published in a newspaper of general circulation in Sumner at least two (2) times; the date of the first publication shall be at least seven (7) days prior to the hearing. Public hearings shall be conducted in accordance with the procedures in Title 30-A, M.R.S.A., Section 2691, Subsection 3 a, b, c, d and e. The Planning Board shall notify all property owners within five hundred (500) feet of the boundaries of the Public Hearing.

SECTION VIII. GENERAL REQUIREMENTS

A. Buffer Strip

The Board may require a buffer strip, such as natural vegetation, where separation is desirable.

B. Conformance With Other Laws, Regulations

The proposed subdivision shall be in conformance with all pertinent local, state and federal ordinances, statutes, laws and regulations. If the proposed subdivision meets the definition of a 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 Board before any construction activity may begin in the subdivision.

C. Construction Prohibited

Utility installations, ditching, grading or construction of roads, grading of land or lots, or construction of buildings shall not be started on any part of the proposed subdivision until the final Plan has been approved and endorsed as provided for by this Ordinance.

D. Impact on Community Services and Facilities

Any proposed subdivision shall be reviewed by the Board with respect to its effect upon existing community services and facilities including schools and recreational areas. The Board shall advise the Selectmen and the developer regarding the designation of space for future community facilities and may withhold approval of the Final Plan pending such designation.

E. Lots

1. Lot sizes shall be in conformance with the following dimensional requirements:

a. A minimum lot size of two (2) acres shall be required for each dwelling unit. Each dwelling unit shall require a minimum of 175 feet of frontage on a town or state road which is maintained on a year-round basis or a road constructed in accordance with the Road Ordinance for the Town of Sumner. A lot abutting a lake, pond, river, stream or freshwater wetland as defined in the Shoreland Zoning Ordinance for the Municipality of Sumner shall have a minimum shore frontage of 200 feet or as otherwise required by the above-mentioned Ordinance.

b. If more than one dwelling unit is constructed on a single lot, all dimensional requirements shall be met for each dwelling unit, except as provided for in this section.

c. Lots for Planned Developments and multi-family structures shall contain a minimum of two (2) acres of land area per dwelling unit. Each ten (10) dwelling units within a Planned Development shall be located on their own twenty (20) acre parcel of land. Where there is less than 10 units, the required parcel size shall be determined by multiplying the number of units by two (2) acres.

d. 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. The ratio of lot length to width shall not be more than three to one.

e. All structures shall be back at least 35 feet from all property lines and at least 75 feet from the center line of streets, roads and rights-of-way.

F. Lot Access

Any proposed subdivision shall be so designed that each lot has access to a town or state road which is maintained on a year-round basis or a road constructed in accordance with the Road Ordinance for the Town of Sumner.

G. Land Not Suitable for Development

The Planning Board shall not approve such portions of any proposed subdivision that are located on land below sea level, within the 100 year frequency flood plain, or on land which must be

filled or drained or on land created by diverting a water course. In no instance shall the Board approve any part of a subdivision located on filled tidal land or filled or drained Great Ponds.

H. Planned Development

1. A planned development is a residential or mixed-use land development which is developed under unified management; is planned as a whole according to comprehensive and detailed plans, including streets, utilities, lots or building sites, open space and preserved natural features, recreational facilities and design principles for proposed buildings, is reviewed and approved as a subdivision by the Planning Board and in addition is subject to the requirements of this section; may be developed in clearly identified stages; and provides for the creation and maintenance of common facilities. A Planned Development includes developments such as multi-family, condominium type ownership and mobile home parks.

2. Purpose: The purpose of this section is to allow for large-scale, well-planned developments that;

- a. are in accordance with the Town's Comprehensive Plan;
- b. are reasonably self-sufficient in the provision of necessary services, such as sewerage, water supply, off-street parking, recreational amenities, and long-term management of common facilities;
- c. integrate a variety of residential, commercial and recreational uses;
- d. preserve open space;
- e. incorporate a pattern of development that is in harmony with the natural features of the land;
- f. provide for efficient use of the land, minimizing the required network of streets and utilities.

3. Proposed planned developments shall be reviewed as subdivisions under the ordinance and shall be reviewed by, and the final decisions shall be made by, the Planning Board. The tract or parcel of land proposed for planned unit development must be in single ownership or the subject of an application filed jointly by the owners of all the property included. The applicant must demonstrate right, title or interest in the land that is the subject of the application.

4. Standards:

- a. A planned development shall contain the required buildable land area in single ownership and may be a mix of residential and non-residential uses. The acreage shall be contiguous, unless the Planning Board finds that noncontiguous acres are part of a common, overall scheme of development.
- b. The planned development shall be served by centralized sewerage and water supply facilities.
- c. Lots which may be created for nonresidential uses shall include sufficient land area to support any proposed structures, the required off-street parking for the uses, whether or not the parking actually is located on the lots, and safe pedestrian circulation.
- d. The maximum height of any residential structure shall not exceed 35 feet at the highest point measured from the average grade.
- e. Where possible, buildings shall be oriented with consideration for scenic vistas, natural landscape features, topography and potential solar access.
- f. All utilities in a planned development shall be installed underground, unless specifically waived by the Planning Board.
- g. Adequate provision shall be made for erosion control and management of stormwater runoff, with particular concern for the effects of effluent draining from the site. Drainage facilities shall be designed to accommodate the 25 year storm.
- h. Planned developments shall conform to the standards of subdivision approval.

I. Definitions

Buildable Land: land which is not within the 100 year frequency floodplain, filled or drained or created by diverting a watercourse.

Freshwater Wetland: Means freshwater swamps, marshes, bogs and similar areas which are:

- a. 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
- b. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this subsection.

J. Open Space Provisions

1. The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas.
2. The Board may require that the subdivider reserve an area of land as open space and/or recreational area for use by property owners in the subdivision.
 - a. If such an area is reserved, the Final Plan shall provide how title to the reserved land shall be held and how costs of development, maintenance and taxes shall be met.
 - b. Included in the instrument of conveyance to each property owner of the subdivision shall be a statement of:
 - (1) The manner of providing for the cost of development and maintenance and for property taxes of the reserved land.
 - (2) If appropriate, the individual property owner's pro rata share of development costs, maintenance cost and property taxes of the reserved land.
 - c. Land designed for public use shall not be subdivided for any other purpose. This prohibition does not apply to land areas designated for later development if the Subdivision Plan includes provision for development in discreet stages.
 - d. Any area designated for common use shall be so arranged that each property owner has access to it.

K. Performance Bond

1. Prior to approval of Final Plan, the Board may require that the subdivider file with the Board a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Town of Sumner, or a performance bond running to the Town of Sumner and issued by a surety company acceptable to the Town of Sumner.

The conditions and amount of such certified check or performance bond shall be determined by the Board of the municipality with the advice of the various municipal officers concerned. The amount shall be at least equal to the total cost of furnishing, installing, connecting and completing all of the

street grading, paving, storm drainage and utilities or other improvements specified on the plan within two years of the date of the certified check or performance bond.

2. The Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the Board of Selectmen for official action.

3. Before a subdivider may be released from any obligation requiring his guarantee of performance, the Board will require certification from the various municipal officers to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (state, federal and local codes, ordinances, laws and regulations).

4. Upon approval of the Final Plan, the Board may, at its discretion, waive the requirements of a performance bond, under the condition that no lot in the subdivision may be sold and no permit shall be issued for construction of any building on any lot in the subdivision until it shall have been certified in the manner set forth in Section VIII. K., paragraph 3, that all improvements have been made. The Board shall set a reasonable completion date for said improvements, and approval of a Final Plan shall be voided if said improvements are not completed within the specified time. The Board may, upon request from the subdivider, extend the completion date. The Board shall have the option of holding the approved Final Plan until all improvements are completed in accordance with Section VIII. K., paragraph 3.

L. Plan Revisions After Approval

No changes, erasures, modifications or revisions shall be made in any Subdivision Plan after Final Plan approval has been given by the Board and endorsed in writing on the Plan, unless the Plan is first resubmitted and the Board approves any modifications. In the event that the Subdivision Plan is recorded without complying with this requirement, the Plan shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Selectmen and Registry of Deeds.

M. Initiation of Development Within Two Years

If construction of the public improvements are not begun within two years from the approval date, the approval shall lapse and the applicant shall reapply to the Board for a new approval. Reapplication for approval shall state the reasons why construction was not begun and the reasons why the applicant will be able to begin the activity within two years from the granting of a new approval, if granted. Reapplication for approval may include information submitted in the initial application by reference.

N. Storm Drainage

Adequate drainage shall be provided so as to reduce the danger of flooding and erosion. Adequate storm water drainage facilities shall be the responsibility of the subdivider and subject to the approval of the Board.

O. Impact on Woodlands

Any proposed subdivision shall be reviewed by the Board with respect to destruction of existing forestry resources during a period of two (2) years prior to submission of an application. Any clearcutting (removal of more than 75% of the biomass) shall be accomplished only after Board approval or after consultation with two foresters approved by the Board to certify the need for a clearcut. Selective cutting after being marked by a reputable forester prior to submission is encouraged by the Board.

P. Validity

Should any section or provision of this Ordinance be declared by the Courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance, and to this end, the provisions of the Ordinance are hereby declared to be severable.

Q. Effective Date

This Ordinance shall take effect and be in force from and after the date of its official adoption.

R. Conflict of Ordinances

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulations, bylaw, permit or provision of law. Where this Ordinance imposes a higher standard for the promotion and protection of health and safety, the provisions of this Ordinance shall prevail.

SECTION IX. INSPECTION OF REQUIRED IMPROVEMENTS

A. Notification of Construction

At least ten (10) days prior to commencing construction of improvements or alterations of roads and utilities, the subdivider shall notify the CEO in writing of 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 Planning Board.

B. Noncompliance with Plan

If it is found, upon inspection of the improvements performed before the expiration date of the guarantee or security arrangement or performance bond required by Section VIII., 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 Planning Board, the bonding company, and take all necessary steps to preserve the municipality's rights under the guarantee, security or bond. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved plan with Sumner.

C. Modification During Construction

If at any time before or during the construction of the required improvements, it is demonstrated to the satisfaction of the appointed Inspector that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the appointed Inspector may, upon approval of the Planning Board, 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 Board. The appointed Inspector shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.

SECTION X. ENFORCEMENT

When the violation of any provision of this Ordinance shall be found to exist, the Planning Board, Code Enforcement Officer or Selectmen are hereby authorized and directed to institute in the Town any and all actions and proceedings that may be appropriate or necessary to the enforcement of the provisions of this Ordinance.

SECTION XI. WAIVERS

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, unless otherwise indicated in the 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 Comprehensive Plan or this Ordinance and provided the criteria of the State Subdivision Law are met.

Where the Board makes written findings of fact that due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.

In granting waivers to any of these conditions in accordance with Sections 1 and 2, the Board shall require such conditions as will assure the objectives of these regulations are met.

Waivers to be shown on Final Plan. When the Board grants a waiver to any of the standards of these conditions, the Final Plan shall indicate the waivers granted and the date on which they were granted.

SECTION XII. AMENDMENT

This Ordinance may be amended by a majority vote of the Town Meeting. Amendments may be initiated by a majority vote of the Board or by request of the Board of Selectmen to the Board or on petition of 10% of the votes cast in the last gubernatorial election in the Town. The Board shall conduct a public hearing on any proposed amendment.

SECTION XIII. APPEALS

An appeal may be taken within thirty (30) days from the Board's final decision on the Preliminary or Final Plan by any party to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure.

(ADOPTED AUGUST 1, 1988)
(AMENDED MARCH 23, 1993)