

**Town of Falmouth, Maine**  
**CHAPTER 701**  
**LAND SUBDIVISION ORDINANCE**

[As Amended 12/22/86]  
[As Amended 07/25/88]  
[As Amended 05/22/89]  
[As Amended 01/22/90]  
[As Amended 04/27/92]  
[As Amended 11/22/93]  
[As Amended 12/19/95]  
[As Amended 06/16/96]  
[As Amended 06/16/97]  
[As Amended 07/24/00]  
[As Amended 07/23/01]  
[As Amended 09/22/03]  
[As Amended 04/26/04]  
[As Amended 12/22/05]  
[As Amended 08/27/07]  
[As Amended 12/17/07]  
[As Amended 09/14/09]

**SECTION 1. Authority, Purpose and Application of Regulations**

Under the authority of MRSA, Title 30, Section 4956, including all acts in amendment thereof and in addition thereto, and any other enabling laws, this *Subdivision Ordinance* of the Town of Falmouth is hereby adopted to encourage the most appropriate use of land; to promote traffic safety; to provide safety from fire and other elements; to provide adequate light and air; to prevent overcrowding of real estate; to promote a wholesome home environment; to prevent housing development in unsanitary areas; to provide an adequate street system; to promote the coordinated development of unbuilt areas; to provide for adequate public services; to assure the comfort, convenience, safety, health and welfare of the people; to protect the environment and to promote the development of an economically sound and stable community.

**SECTION 2. Definitions**

Those definitions set forth in the *Falmouth Zoning Ordinance* shall apply to the *Subdivision Ordinance* in addition to those in this section.

**BLOCK:** Any enclosed area bounded by a street(s).

**CLUSTER SEPTIC SYSTEM:** A cooperative waste water treatment system serving groups of homes that are within close enough proximity to jointly handle their waste water and that have a long-term maintenance and rejuvenation plan to jointly manage the shared waste water treatment system. [Adopted 12/22/05]

**COMMON OPEN SPACE:** Land within or related to a subdivision that is set aside to conserve natural resource, scenic, cultural, historic, or archeological values, provide active or passive recreation, or accommodate support facilities related to the subdivision, and that is restricted from significant development or intensive use except for approved recreational or support facilities and protected in perpetuity in a substantially undeveloped state through legally binding fee ownership or conservation easements. [Adopted 12/22/05]

**COMPREHENSIVE PLAN:** Any part of element of the overall plan or policy entitled “Falmouth Comprehensive Plan, 1988.”

**CONSERVATION EASEMENT:** A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural, cultural, or historic resources; or maintaining air or water quality and including preservation easements for historic or cultural resources. [Adopted 12/22/05]

**CONSERVATION LAND:** Land owned by a public body, land trust, conservation organization, or other group for the purpose of the protection of natural resources or scenic, cultural, historic or archeological values, the provision of open space, and/or for passive recreational use and which is permanently restricted from development or intensive use and protected in perpetuity in a substantially undeveloped state by legally binding arrangements. [Adopted 12/22/05]

**CONSERVATION SUBDIVISION:** A subdivision meeting the requirements of the Resource Conservation Zoning Overlay District of the Zoning Ordinance in which a substantial portion of the site is set aside as permanent, common open space. [Adopted 12/22/05]

**ENGINEER:** Engineer licensed by the State of Maine.

**ENGINEERED SEPTIC SYSTEM:** Any subsurface waste water disposal system designed, installed and operated as a single unit to treat and dispose of 2,000 gallons per day (gpd) or more. [Adopted 12/22/05]

**EXEMPTED LOTS:** Lots which are exempted from subdivision review by State law. However, resale of exempted lots within five years of the approval date for a subdivision to others who would not be exempted under State Law shall constitute a re-subdivision.

**INFORMATIONAL CONFERENCE:** A required meeting between a potential applicant, their consultant team, and the Town Planner to review the Town’s regulations and requirements and the nature of the possible application before any submissions are made or applications filed. [Adopted 12/22/05]

**MUNICIPAL OFFICERS:** Falmouth Town Council.

Section 2 contd.

**MUNICIPALITY:** Town of Falmouth, Cumberland County, Maine.

**OFFICIAL MAP:** Municipal zoning map on file at the Falmouth Town Office.

**PERFORMANCE GUARANTEE:** Surety designed to insure the completion of the improvements required by the Planning Board.

**PERSON:** Person, firm, partnership, corporation, association or other entity.

**PLANNING BOARD OR BOARD:** The Planning Board of the Town of Falmouth created under Article VII, Section 701 of the Town Charter.

**PLOT PLAN:** The copy of the final plan to be recorded and in such form as provided by the Cumberland county Registry of Deeds and State Statutes to be accepted for recording.

**RESOURCE IMPACT AND CONSERVATION PLAN:** An assessment of the impact of the proposed subdivision on the identified resources on the site and the actions that will be taken to minimize and mitigate these impacts. [Adopted 12/22/05]

**SITE INVENTORY AND ANALYSIS:** The Site Analysis Sketch Plan, Site Analysis Narrative, and Existing Resources Site Analysis Plan and supporting data describing the site proposed to be subdivided and analyzing the opportunities and constraints for open space preservation, subdivision, and development. The inventory and analysis are typically submitted for pre-application review prior to submitting a formal application for subdivision approval. [Adopted 12/22/05]

**STEWARDSHIP ACCOUNT:** A private account established and funded by the applicant to assure that funds are available to pay for the monitoring of conservation restrictions on common open space on a perpetual basis. [Adopted 12/22/05]

**STEWARDSHIP FUND:** An account established and managed by the Town of Falmouth into which payments made by applicants to pay for the monitoring of conservation restrictions held by the Town on common open space are deposited. [Adopted 12/22/05]

**STREET:** Alleys, avenues, boulevards, highways, roads, streets or other traffic ways between right of way lines. Streets are further classified according to the function they perform as provided in Appendix 4 of this Ordinance.

**SUBDIVISION PLAN, PRELIMINARY:** Drawings and/or plans indicating the proposed subdivision and tentative layout submitted for consideration by the Planning Board.

**SUBDIVISION PLAN, FINAL:** Drawings and/or plans indicating the final subdivision and layout submitted for final approval by the Planning Board.

**SUBDIVISION:** The division of a tract or parcel of land into 3 or more lots within any 5 year period, which period begins after September 23, 1971, whether accomplished by sale, lease, development, building, or otherwise, except when the division is accomplished by devise,

condemnation, order of court, or gift to a relative, unless the intent of such gift is to avoid the objectives of this section, 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 purposes of this section. In determining whether a parcel of land is divided into 3 or more lots, land retained by the subdivider for his own use as a single family residence for a period of at least 5 years shall not be included. No sale or lease of any lot or parcel shall be considered as being a part of a subdivision of such a lot or parcel is 40 acres or more in size, except where the intent of such sale or lease is to avoid the objectives of this statute.

**SUBDIVISION, MAJOR:** Any subdivision requiring new streets or private ways, extensions of existing streets or private ways; or construction and/or extension of public utilities, and further provided all lots shall meet the minimum area and lot width requirements of the zones in which they are located.

**SUBDIVISION, MINOR:** Any subdivision not exceeding five (5) lots, in which all of the lots front on a way accepted by the Town of Falmouth and further provided that all lots shall meet the minimum area and lot width requirements of the zones in which they are located. A minor subdivision shall also include a private way plan meeting the standards of Appendix 5, Section (D) 3. of this Subdivision Ordinance.

**TOWN ENGINEER:** Engineer employed by the Town.

**WELL EXCLUSION ZONES:** Areas within a subdivision that have been identified and designated as being susceptible to well water contamination due to flow paths of existing or proposed waste water disposal systems. Well exclusion zones include land within 100 feet of a septic system as required by the *Maine Subsurface Waste Water Disposal Rules* and areas identified in a groundwater impact analysis as having concentrations of nitrate as nitrogen in excess of the 10 mg/L Maximum Contaminant Level standard of the EPA's *National Primary Drinking Water Regulations*. [Adopted 12/22/05]

### **SECTION 3. Guidelines**

When promulgating any subdivision regulations and when reviewing any subdivision for approval, the Planning Board shall consider the following criteria, and before granting approval, shall determine that the proposed subdivision:

- a. Will not result in undue water or air pollution. In making this determination, it shall at least consider: the elevation of land above sea level and its relation to the flood plains; the nature of soils and subsoils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; the availability of streams for disposal of effluents; and the applicable state and local health and water resources regulations.
- b. Has sufficient water availability for the reasonably foreseeable needs of the subdivision.
- c. Will not cause any unreasonable burden on an existing water supply, if one is to be utilized.

Section 3 contd.

- d. Will not cause unreasonable soil erosion or reduction on the capacity of the land to hold water so that a dangerous or unhealthy condition may result.
- e. 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.
- f. Will provide for adequate solid and sewage waste disposal.
- g. Will not cause an unreasonable burden on the ability of a municipality to dispose of solid waste and sewage if municipal services are to be utilized.
- h. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.
- i. Is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any, and
- j. The subdivider has adequate financial and technical capacity to meet the above stated standards.
- k. Whenever situated, in whole or in part, within 250 feet of any pond, lake, river, or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
- l. Will not alone, or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.

In addition to determining compliance with the guidelines a-1 above, the Planning Board shall also consider the compliance of the proposed subdivision with the General Requirements of Appendix 1.

The Planning Board shall issue an order denying or granting approval of the proposed subdivision or granting approval upon such terms and conditions as it may deem advisable to satisfy the criteria listed in this section, and to protect and preserve the public's health, safety and general welfare. In all instances, the burden of proof shall be upon the person proposing the subdivision.

#### **SECTION 4. Application**

- A. Application Submission. Any person creating a subdivision within the meaning of this ordinance shall cause an application for approval of the subdivision to be filed with the Planning Board. The Planning Board, in writing, shall notify the applicant within sixty (60) days of the preliminary review date and the form the review will take as provided by the terms and conditions of the *Subdivision Ordinance*. Failure of the Board to take action as herein provided shall deem such plan as disapproved.
- B. A checklist of required submissions for preapplication sketch plan and major and minor subdivisions may be developed to assist the applicant and the administration of this ordinance [Amended 11/22/93].

#### **SECTION 5. Application Fee**

- A. An application fee shall be paid in accordance with the fee schedule established by the Town Council and concurrent with the submission of any plan.
- B. Review Escrow Account - Escrow fees as established by the Town Council shall be 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. If the town expends the review escrow account prior to completing its review, the applicant shall replenish the review escrow to the original amount. [Amended 9/24/01] 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 with thirty (30) days after the Board renders its final decision on the application. [Amended 1/25/99] [Amended 8/27/07]
- C. Negotiated Exaction Fees - in accordance with Section 12, may be assessed for each development that proceeds through the review process.

#### **SECTION 6. Contractual Services**

The Planning Board may contract with and appoint outside consultant and professional services to inspect premises and review and provide plans for the purpose of implementing this ordinance. Contractual services are to provide advice to the Planning Board; the Board cannot be bound by any opinions rendered by such service providers.

#### **SECTION 7. Major Subdivision** [Amended 12/22/05]

The Town recommends that all major subdivisions be designed and inspected by a multidisciplinary team of professionals that includes surveyors, architects, engineers, and landscape architects, among other professionals, as needed and appropriate. For conservation

Section 7 contd.

subdivisions in the Resource Conservation Zoning Overlay (RCZO) District, the following requirements shall apply.

- a) The owner shall retain a landscape architect in order to ensure that the many elements of the subdivision plan are designed and built according to a coordinated and efficient development concept. The owner's landscape architect, and other professionals as needed, shall consult with Town staff or with the town's peer review consultants, in order to ensure compliance with the Town standards. The consultation process shall begin at the time of sketch plan review and extend throughout the design, approval, and construction phases of the project.

The Town may waive the requirement for a landscape architect for subdivisions in the RCZO District or for the consultation process, if in the opinion of the Planning Board the project does not require these services due to its small size or lack of complexity.

All applicants for review of a subdivision located in the Resource Conservation Zoning Overlay (RCZO) District must schedule an informational conference with the Town Planner and their consultant team prior to requesting a preapplication review with the Planning Board. The purpose of this activity is to familiarize the applicant with the Town's procedures and requirements for development within the RCZO District including Conservation Subdivisions and to familiarize the Town's representatives with the nature of the project. At this meeting, the Town Planner will discuss the concept of a conservation subdivision with the applicant and will provide the applicant with information about conservation subdivisions and give the applicant the opportunity to review other information about conservation subdivisions. The applicant shall be prepared to discuss his/her plans for the development in a general nature.

The informational conference shall be held by the Town Planner. The Planner may ask other Town staff and consultants to participate in the informational conference if warranted by the scale and/or nature of the proposal. As part of the meeting, the Town representative(s) and the applicant may visit the proposed site. Such review shall not cause the plan to be a pending application or proceeding. No decisions relative to the plan shall be made at this meeting.

Major subdivision review requires a preapplication review with the Planning Board followed by the submission of a preliminary plan and final plan in accordance with the procedures as specified below:

**A. Preapplication Sketch Plan Review Procedure [Adopted 11/22/93]**

1. Prior to submitting a preliminary plan application, applicants shall request a preapplication sketch plan review by the Planning Board.
2. The purposes of sketch plan review are to:
  - a. Allow the Planning Board to understand the nature of the proposed development and the issues involved before the design process proceeds;

Section 7 contd.

- b. Allow the applicant to understand the development review process and required submissions;
  - c. Identify issues that need to be addressed in future submissions; and,
  - d. Approve the general development approach to the project site.
3. The Planning Board may elect to hold a site walk at the preapplication stage.

**B. Preapplication Sketch Plan Submissions** [Adopted 11/22/93]

Preapplication sketch plan submissions shall conform to the requirements of Appendix 2.

**C. Preliminary Plan Procedures**

1. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.
2. Within forty-five (45) days after formal submission of a Preliminary Plan, the Planning Board shall take action to give preliminary plan approval, with or without modifications, or disapprove such Preliminary Plan. The reasons of any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within such forty-five (45) day period shall constitute disapproval of the Preliminary Plan. Prior to preliminary approval, the Planning Board may hold a public hearing.
3. When granting approval to a Preliminary Plan, the Planning Board shall state the conditions of such approval, if any, with respect to: (1) the specific changes which it will require in the Final Plan; (2) the character and extent of the required improvements for which waivers may have been requested and which in its opinion may be waived without jeopardy to the public health, safety, and general welfare; (3) the amount of improvement or the amount of all bonds therefore which it will require as prerequisite to the approval of the Final Subdivision Plan. The decision of the Planning Board, plus any condition imposed, shall be noted on two (2) copies of the Preliminary Plan.

One copy of the approved preliminary plan, signed by the Chairman of the Planning Board (or Acting Chairman) shall be retained by the Board and one signed copy shall be given to the subdivider. On each such copy, any modifications required or approved by the Board shall be enclosed in lines and numerals or words or symbols at the time of approval, and the following wording in bold type letters written on the plan  
“APPROVAL OF THIS PRELIMINARY PLAN DOES NOT CONSTITUTE AN ACCEPTANCE OF THE SUBDIVISION.” However, failure of the Board to place the above warning on the approved preliminary plan shall not constitute approval of the final plan. The preliminary plan approval shall be limited as described in Section 7 (C) (4).

4. Preliminary approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any. Prior to approval of the Final Subdivision Plan, the Planning Board may require additional changes as a result of new information obtained at a public hearing.

#### **D. Preliminary Plan Submissions**

Preliminary Plan submissions shall conform to the requirements of Appendix 3.

#### **E. Final Plan Procedures**

1. The subdivider shall, within six (6) months after the 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 the approval of the Preliminary Plan, the Planning Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan.

If approved by the Planning Board, the developer may present a section of the Preliminary Plan for approval, provided such section contains at least 25% of the total number of lots as shown on the Preliminary Plan. The remainder of the Preliminary Plan, as approved by the Board, shall not be altered in any way without further review and approval by the Board.

2. If the proposed subdivision is subject to review by the State of Maine, Department of Environmental Protection in any way, then: The approval of the State of Maine, Department of Environmental Protection shall be secured in writing before official submission of the Final Plan.
3. Water supply system proposals contained in the Subdivision Plan shall be approved in writing by:
  - a. The Portland Water District if existing public water service is to be used, or
  - b. The State of Maine, Department of Human Services, if the subdivider proposes to provide a central supply system.

Such approval shall be secured before official submission of the Final Plan.

4. Sewage Disposal

Section 7 contd.

Sewage disposal shall conform to the regulations of “Sewage Ordinance, Town of Falmouth, Maine”, the Maine Subsurface Wastewater Disposal Rules and to this Ordinance.

5. No Final Plan shall be acted on by the Planning Board until it has held a public hearing thereon. Notice of such hearing shall be published in a newspaper of general circulation at least ten (10) days prior to such hearing. Further, notice of the time and place of such hearing shall be sent not less than ten (10) days before the hearing to the developer and to the owners and to the occupants of properties adjoining such subdivision by the names in the most recent tax records of the Town of Falmouth. Certificates of mailing recording the date such notices were given to the U.S. Postal Service shall be sufficient evidence of the issuance of a notice. Owners of property shall be considered to be the parties listed by the Assessors’ Department of the Town of Falmouth as those against whom taxes are assessed. Failure of any property owner to receive a notice of public hearing shall not necessitate another public hearing and shall not invalidate the action of the Planning Board.
6. The Final Plan shall conform substantially to the Preliminary Plan, including profile and cross section as approved by the Planning Board. Each major subdivision Final Plan shall be drawn at a scale of not more than 40 feet per inch. If two or more sheets are needed to show a subdivision, an index sheet of the same dimensions as the subdivision sheets shall be submitted with them, drawn at such scale as to show the entire subdivision on one sheet.
7. As a condition precedent to the final approval of a major subdivision, the developer shall tender the Planning Board a performance guarantee meeting the requirements of Section 11 of this Ordinance. Prior to acceptance of the performance guarantee, the Planning Board shall consider the written recommendation of the Town Engineer.
8. The Planning Board shall, within sixty (60) days from submission of the Final Plan, approve, modify and approve or disapprove the Final Plan. The reasons for any modification required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within such sixty (60) days period shall constitute disapproval of the Final Plan. Approval by the Planning Board shall be endorsed in writing on each final plan with the date of such approval and the signature of the majority of the Planning Board members.

The Final Plan shall then be filed with the Falmouth Town Clerk no later than ninety (90) days from the date of approval. Failure to record within the specified time shall be cause for a new review of the plan.

9. The plot plan shall be on mylar and shall be recorded with the Cumberland County Registry of Deeds no later than ninety (90) days from the date of approval. Failure to record within the specified time shall be cause for a new review of the plan.

## **F. Final Plan Submissions**

Final Plan submissions shall conform to the requirements of Appendix 3 of this Ordinance.

## **G. Plan Revisions After Approval**

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 Plan is first resubmitted and the Planning Board approves any modifications. In the event that a Final Plan is recorded without complying with this requirement, the same shall be considered null and void.

## **SECTION 8. Minor Subdivisions**

### **A. Procedure**

1. All applications for Plan approval for Minor Subdivision shall be accompanied by fees as established by the Town Council and payable by check to the Town of Falmouth.  
[Amended 8/27/07]
2. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.
3. The Planning Board shall, within forty-five (45) days from the date of submission, approve, modify and approve, or disapprove the Final Plan. Notice shall be mailed to all abutters, and the Board shall accept written or oral comments for its consideration in its decision to approve, modify or disapprove. The Board shall specify in writing its reasons for any such modification or disapproval. If the Board fails to take action within forty-five (45) days as specified above, the Final Plan shall be deemed disapproved.
4. The plot plan shall be on mylar and shall be recorded with the Cumberland County Registry of Deeds no later than ninety (90) days from the date of approval. Failure to record within the specified time shall be cause for a new review of the plan.
5. The approval of the Planning Board of a minor 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 the plan.

No minor subdivision plan shall be given final approval by the Planning Board until all the required changes and modifications as required by this Ordinance are made a part thereof. Approval by the Planning Board shall be in writing and signed by a majority of the Board. A copy of the approved plan shall be filed with the Code Enforcement Officer within ten (10) days from the date of approval. The plot plan shall be drawn on mylar with India Ink and shall be recorded with the Cumberland County Registry of Deeds no later than 90 days from the date of approval. Failure to file shall be cause for a new

review of the plan. The Planning Board may require a performance guarantee in accordance with Section 11 of this Ordinance.

**B. Minor Subdivisions in the Resource Conservation Zoning Overlay District (RCZO)**  
[Adopted 12/22/05]

All applicants for review of a subdivision located in the Resource Conservation Zoning Overlay (RCZO) District must schedule an informational conference with the Town Planner prior to requesting a preapplication review with the Planning Board. The purpose of this activity is to familiarize the applicant and their principal consultant team with the Town's procedures and requirements for development within the RCZO District including Conservation Subdivisions and to familiarize the Town's representatives with the nature of the project. At this meeting, the Town Planner will discuss the concept of a conservation subdivision with the applicant and will provide the applicant with information about conservation subdivisions and give the applicant the opportunity to review other information about conservation subdivisions. The applicant shall be prepared to discuss his/her plans for the development in a general nature.

The informational conference shall be held by the Town Planner. The Planner may ask other Town staff and consultants to participate in the informational conference if warranted by the scale and/or nature of the proposal. As part of the meeting, the Town representative(s) and the applicant may visit the proposed site. Such review shall not cause the plan to be a pending application or proceeding. No decisions relative to the plan shall be made at this meeting.

Minor subdivision review for a subdivision in the RCZO District requires a preapplication review with the Planning Board before the submission of a final plan. The preapplication review shall be in accordance with the procedures and requirements set forth in 7.A. and 7.B. above.

**C. Submissions**

Minor subdivision plan submissions shall conform to the requirements of Appendix 4 of this Ordinance.

**D. Plan Revisions After Approval**

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 Plan is first resubmitted and the Planning Board approves any modifications. In the event that a Final Plan is recorded without complying with this requirement, the same shall be considered null and void.

## **SECTION 9 Street Standards**

Street standards shall conform to the requirements of Appendix 5, Street Standards.

## **SECTION 10. Inspection of Required Improvements**

- A. At least five (5) days prior to commencing construction of required improvements, the subdivider shall pay an inspection fee as established by the Town Council, payable by check to the Town of Falmouth, stating the purpose of the fee. The subdivider shall notify the Public Works Director in writing of the time when the subdivider proposes to commence construction of such improvements so that the Town 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 satisfactory completion of improvements and utilities required by the Planning Board. [Amended 12/19/95] [Amended 8/27/07]
- B. Required improvements shall be made and inspected in accordance with Appendix 6 of this Ordinance.

## **SECTION 11. Performance Guarantee**

Performance guarantees shall be drafted such that the Town shall receive written notice at least sixty (60) days prior to their expiration. Construction which occurs such that certification by the Public Works Director is not possible shall be grounds for default of the performance guarantee. A Performance Guarantee may be tendered in the form of either a passbook issued in the name of the Town, a certified letter of credit, or a performance bond running to the town of Falmouth in a form satisfactory to the Planning Board and issued by a surety company acceptable to the Planning Board. It shall be in an amount of money to be determined by the Planning Board with the advice of various Town departments and agencies to be sufficient to cover the cost of at least furnishing, installing, connecting and completing all of the street grading, paving, storm drainage, utilities, and other improvements for public benefit or use specified in the Final Plan. It shall be conditioned upon the completion of all such improvements within the time limit specified by the Planning Board, which shall not exceed two (2) years from the date of approval.

A Conditional Agreement, if acceptable in lieu of a Performance Guarantee, shall be endorsed by the Planning Board on the Final Plan, and shall provide that no lot or parcel of land may be conveyed, and that no permit may be issued by the Building Inspector for any building on any portion of the development until the completion of all such improvements within a period of time determined by the Planning Board not to exceed two (2) years from the date of such agreement.

Completion shall be determined by the Town Manager to his satisfaction, who shall receive written certification signed by the Public Works Director that all improvements assured by the Performance Guarantee have been constructed in conformance with the Final Plan and all applicable codes and ordinances. In addition, the developer shall furnish at his own expense the signed certification by a registered surveyor or civil engineer that all permanent bounds or

monuments have been installed and are accurately in place in the locations designated in the Final Plan.

**SECTION 12. Negotiated Exactions** [Adopted 1/22/90]

**A. Development Impact Analysis - Residential.** The Planning Board may require the applicant to conduct a development impact analysis which will consider the following demographic features:

1. Demographic Description. The analysis must identify the demographic market the project intends to serve, including:
  - a. type of family;
  - b. average family size;
  - c. numbers and ages of children; and
  - d. anticipated time period to fill units or lots.

Associated data, such as anticipated family income levels, type of employment, and projected housing costs may also be presented to support projections associated with the above demographic description. If transfers from existing Town families and homes are expected, the impact on the secondary market must be projected. The basis for all projections must be provided.

**B. Development Impact Analysis - Commercial, Industrial, or Institutional.** The Planning Board may require the applicant to conduct a development impact analysis. For commercial, industrial, or institutional development, the applicant shall take the following factors into consideration:

1. Data Description. The analysis must identify data associated with the project including, but not limited to, the following:
  - a. Number of employees, shifts, and period of operation;
  - b. Where retail business is concerned, anticipated trade area, trade area population description, and desired customer mix;
  - c. Area of operating space, seating capacity, rooms, beds, or number of pumps, whichever is appropriate; and
  - d. Where waste production is involved, description of type, volume, and method of removal.

**C. Community Facilities Impact Analysis.** At the discretion of the Planning Board, the applicant may be required to utilize the above data to conduct an analysis of the following:

1. Estimated impact on the public sewer system, including flow estimated and assessment of capacity;

2. Estimated impact on traffic systems, including the impact of projected trips on flow characteristics and the impact of traffic on the immediate, existing road structures;
3. Estimated impact on the school system;
4. Estimated impact on the Public Works Department;
5. Any other study deemed necessary by the Planning Board, including, but not limited to, open space, parks, public safety systems, drainage systems, or solid waste.

Once these analyses have been completed, the applicant shall present appropriate projections and impact assessments to the appropriate Town agency for review and comment.

**D. Negotiated Exactions.** The Planning Board may require the applicant to participate in municipally or state owned, off-site capital improvements. In accordance with subsection C, where it appears that the proposed development will result in a negative impact or decline in the level of service of any existing off-site capital improvement, the Planning Board shall assess and establish the applicant's level of participation in the off-site capital improvement.

1. **Conducting the Assessment.** In conducting the assessment, the Planning Board shall consider the following:
  - a. The status of the system and service as a result of the analysis and any potential relationship to items noted and scheduled in the comprehensive plan and capital improvement program.
  - b. The net effect of the proposed development on the capacity of the capital improvement, indicating the percentage share caused by the development.
  - c. A cost estimate for this capital improvement so as to meet the increased demand, a breakdown of the applicant's share of that cost, and an estimate of the remaining capacity and post improvement capacity available to developments other than the applicant.
2. **Improvement Responsibilities.** As soon as the applicant's fair share of capital improvement impact has been established by the Planning Board, the Board shall select the method in which the applicant must participate in the capital improvement. The following alternatives are available:
  - a. The applicant must agree to make the necessary infrastructure improvements, providing all initial financial carrying costs, establish a construction schedule, and post a performance guarantee to cover all associated costs. The applicant may recover the improvement costs (including engineering and design, construction, and financing expenses) within ten (10) years after improvements are made and in accordance with a specified level of service range associated with the improvement.

For the applicant to recover these costs, subsequent developments must realize a benefit by using the infrastructure improvements financed by the applicant. Cost reimbursement for the applicant shall be established as subsequent developments go through the subdivision or site plan review process.

Calculations shall include adjustments for time-price differentials using the coupon issue yield equivalent of 52-week United States Treasury Bills (1-year Treasury Rate) as an index. Payments shall be made prior to the release of the signed subdivision mylar for recording purposes or the building permit where no recording mylar is involved.

- 1) Allocation Cost Sharing for Subsequent Development(s). In arriving at the appropriate cost share for subsequent development, applicants shall use the same methodology as that utilized by the initial applicant. In applying the methodology, subsequent applicants shall establish their cost based on the percentage utilization of the improvements in terms of post-construction level of service.
  - 2) Reallocation of Carrying Costs. At the request of the developer and at the discretion of the Planning Board, the Town may also require subsequent developments to share in the initial financial carrying costs of the necessary infrastructure improvements. If so determined, the carrying costs shall be shared between the initial and subsequent development(s) in direct proportion to their relative impact on the capital improvement. Once apportioned, the initial and subsequent development(s) are eligible for cost reimbursement from subsequent development(s) as described in a. and 1) above.
- b. The Town may agree to complete the improvements. The applicant shall pay the required share of the cost equal to their fair share to the Town prior to the release of the signed subdivision mylar or building permit, said payment to be held in a reserve fund until the improvement is completed. Subsequent developments that realize a benefit by using the infrastructure improvements financed by the Town shall also pay a fair share contribution.
  - c. Upon establishing a negotiated exactions agreement for an infrastructure improvement project, the Planning Board shall describe an improvement benefit district within which subsequent development is likely to benefit from the required improvements. The proposed benefit district and the methodology to be used in assessing future allocation cost sharing and carrying cost reallocation shall then be referred to the Town Council for enactment. Benefit districts enacted by the Town Council shall be effective for a period of ten (10) years from the date of enactment. [Amended 4/27/92].
  - d. Within each negotiated exactions benefit district enacted by the Town Council, all subsequent development applications for site plan or subdivision approval shall be required to participate in cost sharing and/or carrying costs for the infrastructure

improvement project unless the Planning Board determines, per subsections C. and D., that no benefit has been derived from the prior improvement project. [Amended 4/27/92]

- e. If the improvement is not completed within ten (10) years, the fee, plus interest, must be returned to the applicant. If the improvement is made at a cost less than was anticipated, the remaining portion shall be returned to the applicant(s) at amounts equal to their fair share of the improvement.
- f. The Town shall segregate the funds received from exaction agreements from the general revenue fund and shall expend those funds solely for the purpose that was intended.

**SECTION 13. Procedural Waivers and De Minimus Variations** [Amended 6/16/97]

- A. The Planning Board may, after a public hearing, waive the procedures leading up to the Final Approval when, in its opinion, the strict application of the procedure is not required to determine compliance with Section 3 and other requirements of this ordinance. In so waiving the requirements of those sections, the Planning Board shall nonetheless require such drawings and documents as necessary to provide a basis to determine compliance and on which to grant or deny approval.
- B. The Planning Board may, after a public hearing, permit a *de minimus* variation from dimensional requirements of this Ordinance not to exceed 5 percent where the Board finds that unreasonable hardship would result from the strict application of the ordinance and that the need for variation is due to the unique circumstances of the property which are beyond the control of the applicant.
- C. The subdivision guidelines and required minimum performance standards of the Ordinance and its appendices shall apply to all subdivision plans. If the Planning Board finds that, due to special circumstances of a particular plan, the application of certain performance standards are not requisite in the interest of public health, safety, and general welfare, the Planning Board may waive the required standards, subject to appropriate conditions. In granting any waivers, the Board shall make findings that the subdivision guidelines have been met with the waiver approval and conditions, and that the effect of granting the waiver will not nullify the intent and purpose of the Comprehensive Plan or the Subdivision Ordinance. [Adopted 6/16/96]

**SECTION 14. Enforcement**

- A. No plan of a subdivision of land within the Town of Falmouth which would constitute a subdivision as defined herein shall hereafter be filed or recorded in the Registry of Deeds until a Final Plan thereof shall have been approved by the Planning Board in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in this Ordinance, nor until such approval shall have been entered on such Final Plan by the

Section 14 contd.

Planning Board. No lot in a subdivision approved by the Planning Board shall be subsequently further divided without the prior approval of the Planning Board and the recording of a modified plan showing such division. A statement that further divisions require Planning Board approval shall be printed on the Final Plan.

- B. 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 Planning Board and recorded in the Registry of Deeds.
- C. In addition to fines imposed by State Law, any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this section or violates any provision of this ordinance shall be punished by a fine of not more than allowed by Town Charter for ordinance violations for each such conveyance, offering, agreement, or violation. The Attorney General, the Town of Falmouth, or the appropriate municipal officers may institute proceedings to enjoin the violation of this Ordinance.
- D. No public utility, water district, sanitary district or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Planning Board.
- E. No person shall grade or construct roads, grade land or lots or construct any buildings within a subdivision until such time as the Final Plan of such subdivision shall have been duly approved as provided in this Ordinance and until the original copy of the Final Plan has been duly recorded with all easements and conditions in the Cumberland County Registry of Deeds.

**SECTION 15. Subdivisions in Shoreland Zoning**

Subdivisions may be permitted within a Shoreland Zone on approval of the Planning Board, after public hearing, and in accordance with the provisions of Section 7 of *the Zoning and Site Plan Review Ordinance* and the provisions of this ordinance.

**SECTION 16. Review and Approval by Other Agencies**

Where review and approval of any subdivision by any other governmental agency is required, such approval shall be submitted to the Planning Board, in writing, prior to submission of a Final Plan.

**SECTION 17. Conflict with Other Ordinances or Regulations**

Where a provision of this ordinance appears to be in conflict with any provision of any other ordinance, rule, regulation or statute, that provision which imposes the greater restriction and/or provides for the lesser density of land use shall have precedence.

**SECTION 18. Appeals**

Appeals from decisions rendered by the Planning Board under this Ordinance shall be taken directly to Superior Court in accordance with Rule 80B of the Maine Rules of Civil Procedure and no appeal shall lie from decisions of the Planning Board to the Board of Zoning Appeals or to the Falmouth Town Council. [Amended 7/25/88]

## APPENDIX 1

### 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) Subdivision Plan Shall Conform to Comprehensive Plan

Any proposed subdivision shall be in conformity with a Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

#### (B) Preservation of Natural and Historic Features

The Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (10" dbh or more), the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as far as possible.

#### (C) Lots Not Suitable for Development [Amended, 7/24/00]

The Board shall not approve for development or building any lots in proposed subdivisions that are:

1. Situated below sea level;
2. Located within the 100 year frequency flood plan as determined by the Falmouth Planning Board, based on information from an authorized federal or state agency, or when such identification is not available or adequate, based on information developed by a competent hydrologist and submitted by the applicant; and/or
3. Located on land which must be filled or drained or on land created by diverting a watercourse.
  - a. In making this determination, applicants shall be required to demonstrate that positive drainage can be achieved from foundation perimeter drains without significantly altering existing topography by raising lot grades. [Adopted, 7/24/00]
  - b. To ensure that important wetlands are not altered by foundation drainage systems and to discourage future filling of wetlands to create useable yard space, a minimum setback of fifty (50 ft.) feet shall be maintained between the upland edge of a wetland

Appendix 1 contd.

in excess of four thousand (4000 sq. ft.) square feet in area, whether on-site or off-site, and any structure. [Adopted, 7/24/00]

- c. The wetland setback provision of subsection b. above shall not apply to the Exit 10 Master Planned Development District. [Adopted August 28, 2000]

(D) Blocks

1. The length, width and shape of blocks shall be determined with due regard to:
  - a. Provisions of adequate building sites suitable to the special needs of the type of use contemplated.
  - b. Zoning requirements as to lot sizes and dimension.
  - c. Needs for convenient access, circulation, control and safety of street traffic.
  - d. Limitations and opportunities of topography.
2. Blocks shall not be less than 400 feet, nor more than 1200 feet in length except as the Planning Board considers necessary to secure the efficient use of land or desired features of street pattern. In blocks exceeding 800 feet in length, the Planning Board may require the reservation of a 20 foot wide deeded easement through the block to provide for the crossing of underground utilities and pedestrian traffic where needed or desirable and may further specify, at its discretion, that a 6 foot wide paved foot path be included. The Planning Board shall require the subdivider to provide for the proper maintenance of any such easement.

(E) Lots

1. The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated.

(NOTE: The Board may exercise its judgment with regard to lot shape even though this exercise may cause the loss of a lot or have similar impacts on the development.)
2. Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated.
3. Double frontage lots and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten (10) feet, across which there shall be no right of access, shall be provided along the lines of lots abutting such a traffic artery of other disadvantageous use.
4. Side-lot lines shall be substantially at right angles or radial to street lines.

Appendix 1 contd.

5. For developments subject to site plan review, the provisions of the *Falmouth Site Plan Review Ordinance* shall also apply. [Amended 12/22/05]

(F) Easements for Natural Drainage Ways

1. Where a subdivision is traversed by a natural water course, drainage way, channel, or stream, there shall be provided a stormwater 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.

(G) Utilities

1. The size, type, and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc., shall be approved by the Board and installed in accordance with sound engineering practice.
2. Utilities shall be installed underground in the RA and RB Districts and except as otherwise approved by the Board.

(H) Additional Requirements

Street trees, esplanades, and buffer areas may be required by the Planning Board as necessary to insure compliance with the guidelines contained in Section 3, and the other provisions of this Ordinance. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses.

(I) Required Improvements

The following are required improvements: monuments, street signs, streets, sidewalks, water supply, sewage disposal and storm drainage, except where the Board may waive or vary such improvements in accordance with the provisions of this ordinance.

(J) Special Flood Hazard Provisions

1. The Planning Board shall, when receiving and reviewing subdivisions assure that:
  - a. All such proposals are consistent with the need to minimize flood damage; and
  - b. All public utilities and facilities, such as sewer, gas, electrical and water systems, are located, elevated and constructed to minimize or eliminate flood damage; and
  - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and

Appendix 1 contd.

- d. In the case of subdivision or other developments greater than 50 lots or 50 acres (whichever is the lesser), that all proposals include base flood elevation data.

(K) Public or Communal Water Supplies

1. A public water supply with fire hydrants shall be installed at the expense of the subdivider.
2. The subdivider shall demonstrate by actual test or by a signed affidavit from an authorized representative of the servicing water company that water meeting *Public Health Service, Drinking Water Standards, 1962* can be supplied to the subdivision at the rate of at least 350 gallons per day per dwelling unit, and at an adequate pressure for fire fighting purposes.
3. Storage shall be provided as necessary to meet peak domestic demands and fire protection needs.
4. The subdivider shall demonstrate in the form of signed affidavits from the servicing water company or by engineering reports bearing the signature and seal of a civil engineer registered in the State of Maine, that the proposed subdivision will not result in an undue burden on the source, treatment facilities, or distribution system involved, or provide adequate assurance that such source, treatment facility, or distribution system will be modified to meet the expanded needs.
5. The minimum water-main permitted shall be 6 inches and shall be installed at the expense of the subdivider.
6. The water supply system shall be designed, and installed in accordance with requirements of the Maine Department of Human Services.
7. 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)*.

(L) Individual Water Supply

1. If, in the opinion of the Board, service to each lot by a public water supply is not feasible, the Board may allow individual wells to be used.
2. Where a developer elects to rely on individual, private wells for water supply to the proposed subdivision, the developer shall:

Appendix 1 contd.

- a. provide a registered hydrogeologist's report showing that sufficient water may reasonably be expected on the subdivided lots to support the uses intended; or
  - b. agree to provide a well which will yield an adequate supply of potable water on each lot before that lot is offered for sale.
3. The foregoing provisions notwithstanding, the Board may require a hydrogeologic evaluation where it is concerned about possible groundwater contamination or insufficient areawide groundwater supplies at the proposed subdivision site. The Board may also require the applicant to submit the results of water quality tests as performed by the Maine Department of Human Services, or another certified laboratory.
  4. For all subdivisions where well water serves as the domestic water supply or where existing wells serve adjacent properties, the developer shall submit a hydrogeological evaluation demonstrating that the groundwater concentrations of nitrate as nitrogen meet the Maximum Contaminant Level standard of 10 mg/L of the EPA's *National Primary Drinking Water Regulations* at the project boundaries. Where past land activities, such as agriculture, indicate the potential for high background levels of nitrate nitrogen or other groundwater contaminants, the Planning Board may require testing to determine background levels and may place limitations on total groundwater discharges to ensure safe drinking water supplies for existing and/or proposed households. [Adopted 12/22/05]
  5. All subdivision plans where wells are used shall contain notes and plan designations of well exclusion zones based on required well/septic system separations and nitrate plume locations established in hydrogeological evaluations required by the Planning Board. [Adopted 12/22/05]

(M)Sewage Disposal

1. Sewage disposal shall conform to the regulations of "Sewerage Ordinance, Town of Falmouth, Maine", the rules of the Maine Department of Environmental Protection and the Maine Subsurface Wastewater Disposal rules as appropriate.
2. In the case of on site sewerage disposal, the Planning Board shall require on site soils investigations prior to final approval. Such investigations may include the location of suitable sites for replacement subsurface sewage disposal facilities.
3. Individual or cluster septic systems may be located in the common open space of cluster and conservation subdivisions, provided that such septic systems are blended into the landscape so as to be unobtrusive and further provided that proper easements and maintenance agreements are in place to ensure long-term operation and replacement or rejuvenation of the system(s). [Adopted 12/22/05]
4. Cluster septic systems shall be constructed with dual filtration beds to provide for continuing operation while service or rejuvenation is being conducted. Cluster systems shall also be provided with an area for expansion and/or replacement of the system. As a

Appendix 1 contd.

further safeguard, no engineered septic systems shall be permitted in subdivisions. All cluster septic systems shall be operated and maintained in keeping with a plan approved by the Planning Board meeting the requirements of Appendix 8 for common use facilities, and a sinking fund shall be established to cover the eventual cost of system replacement or rejuvenation. [Adopted 12/22/05]

(N) Trails [Adopted 12/22/05]

For conservation subdivisions in the Resource Conservation Zoning Overlay District, a trail system shall be created within the common open space to provide access from the subdivision homes to the open space network created by the subdivision.

If an existing trail traverses the project site, the trail and a 50-foot corridor along it may be delineated as part of the common open space. Land area permanently designated for trails for public use may be credited toward the open space land requirement described in Section 3.13.5 C. of the Zoning and Site Plan Review Ordinance.

An applicant may propose and develop a new trail. If said trail is available for use by the general public and connects with an existing trail, the land area protected for said trail may be credited toward the open space land requirement described in Section 3.13.5 C. of the Zoning and Site Plan Review Ordinance.

Proposed trails shall conform to the following standards:

- a. Trail improvements shall demonstrate adherence to principles of quality trail design.
- b. Trails shall have a vertical clearance of not less than ten (10) feet.
- c. The width of the trail surface may vary depending upon type of use to be accommodated, but in no case shall it be less than three (3) feet or greater than six (6) feet.
- d. No trail shall be designed with the intent to accommodate motorized vehicles.

## APPENDIX 2

### Preapplication Submissions [Adopted 11/22/93]

#### (A) Site Inventory and Analysis

The site inventory and analysis is intended to provide both the applicant and the Planning Board with an understanding of the site and the opportunities and constraints to its use created by both the natural environment and the built environment. It is anticipated that by requiring this analysis, the resulting development plan will reflect the conditions of the site and that those areas most suitable for the proposed use will be utilized, while those that are not suitable or with significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that both basic information about the site and an analysis of that information be submitted.

#### (B) General Information

The site inventory and analysis submission shall contain, at a minimum, the following information:

1. Names and addresses of the record owner and the applicant;
2. Names and addresses of all consultants working on the project;
3. Names and addresses of all abutting property owners;
4. Evidence of right, title, or interest in the property, and,
5. Evidence of payment of the processing fee.

#### (C) Site Inventory Plan

1. An accurate inventory plan of the parcel at a scale of not more than one hundred (100) feet to the inch in a number and format as determined by the Planning Department and showing as a minimum: [Amended 8/27/07]
  - a. Name of the property owner, north arrow, date, and scale;
  - b. Boundaries of the parcel;
  - c. Relationship of the site to the surrounding area (including distance to closest street intersection);
  - d. Topography of the site at an appropriate contour interval depending on the nature of the use and character of the site (in many cases, submittal of U.S.G.S. 10' contours will be adequate) identifying areas with slopes of 3 percent or less and areas with slopes in excess of 15 percent;
  - e. Hydrology of the site, including drainage courses, wetlands, streams, ponds, and flood plains.
  - f. Location and size of existing utilities or improvements servicing the site (if none, so state);

- g. Existing buildings, structures, or other improvements on the site (if none, state so);
- h. Existing restrictions or easements on the site (if none, state so); and,
- i. Class B high intensity soil survey.

(D) Site Analysis Sketch Plan

1. A site analysis sketch plan at the same scale as the inventory plan, highlighting the opportunities and constraints of the site. This plan, in a number and format as determined by the Planning Department, should indicate: [Amended 8/27/07]
  - a. Prime portions of the site that are suitable for development or use;
  - b. Portions of the site that are suitable for on-site sewage disposal if public sewerage is not available;
  - c. Areas of the site that have development limitations (steep slope, flat, soil constraints, wetlands, flood plains, drainage, etc.) which must be addressed in the development plan;
  - d. Suitable access points and routes for roads and utilities;
  - e. Areas where there may be off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.); and
  - f. Primary and Secondary Conservation Areas for projects involving the creation of a conservation subdivision or that are located in the Resource Conservation Zoning Overlay District. [Adopted 12/22/05]

(E) Site Analysis Narrative and Existing Resources Site Analysis Plan for Subdivisions located in the Resource Conservation Zoning Overlay District [Adopted 12/22/05]

1. Site Analysis Narrative

A Site Analysis Narrative prepared by a registered landscape architect shall be submitted, in a number and format as determined by the Planning Department, describing the existing conditions of the site, the constraints and opportunities created by the site, the open space conservation potential of the site, and the proposed development. This submission should include a narrative description of the existing road system that will provide access to the project and any issues related to traffic capacity, safety, sight distances, or other traffic considerations together with any preliminary studies done relative to the site including wetland delineations, traffic studies, market studies, or other information that will help the Board understand the project. [Amended 8/27/07]

2. Existing Resources and Site Analysis Plan

An Existing Resources and Site Analysis Plan in a number and format as determined by the Planning Department shall be prepared by a registered landscape architect to provide the developer and the municipality with a comprehensive analysis of existing conditions, both on the proposed development site and within 500 feet of the site. Conditions beyond

the parcel boundaries may be described on the basis of existing published data available from governmental agencies, and from aerial photographs. [Amended 8/27/07]

The town shall review the plan to assess its accuracy, conformance with municipal ordinances, and likely impact upon the natural and cultural resources on the property. Unless otherwise specified by the Planning Board, such plans shall generally be prepared at the scale of 1" = 100' or 1" = 200', whichever would fit best on a single standard size sheet (24" x 36"). The following information shall be included in this Plan:

- a. A vertical aerial photograph enlarged to a scale not less detailed than 1 inch = 400 feet, with the site boundaries clearly marked.
- b. Topography, the contour lines of which shall generally be at two-foot intervals, determined by photogrammetry (although 5-foot intervals are permissible beyond the parcel boundaries, interpolated from contour maps provided by the town). The determination of appropriate contour intervals shall be made by the Planning Board, which may specify greater or lesser intervals on exceptionally steep or flat sites. Slopes between 15 and 25 percent and exceeding 25 percent shall be clearly indicated. Topography for major subdivisions shall be prepared by a professional land surveyor or professional engineer from an actual field survey of the site or from stereoscopic aerial photography and shall be coordinated with official U.S.G.S. benchmarks.
- c. The location and delineation of ponds, streams, vernal pools and their upland habitats, ditches, drains, and natural drainage swales, as well as the 100-year floodplains and wetlands, as defined in the Zoning Ordinance. Additional areas of wetlands on the proposed development parcel shall also be indicated, as evident from testing, visual inspection, or from the presence of wetland vegetation.
- d. Vegetative cover conditions on the property according to general cover type including cultivated land, permanent grass land, meadow, pasture, old field, hedgerow, woodland and wetland, trees with a caliper in excess of fifteen inches, the actual canopy line of existing trees and woodlands. Vegetative types shall be described by plant community, relative age and condition.
- e. Soil series, types and phases, as mapped by a Class B high intensity soil survey and accompanying data published for each soil relating to its suitability for construction (and, in unsewered areas, for septic suitability).
- f. Ridge lines and watershed boundaries shall be identified.
- g. A viewshed analysis showing the location and extent of views into the property from public roads and from public parks, public forests, and state game lands.
- h. Geologic formations on the proposed development parcel, including rock outcroppings, cliffs, sinkholes, and fault lines, based on available published information or more detailed data obtained by the applicant.
- i. All existing man-made features including but not limited to streets, driveways, farm roads, woods roads, buildings, foundations, walls, wells, drainage fields, dumps, utilities, fire hydrants, and storm and sanitary sewers.

- j. Locations of all historically significant sites or structures on the tract, including but not limited to cellar holes, stone walls, earthworks, and graves.
- k. Locations of trails that have been in public use (pedestrian, equestrian, bicycle, etc.).
- l. All easements and other encumbrances of property which are or have been filed of record with the Cumberland County Registry of Deeds shall be shown on the plan.
- m. Total acreage of the tract, the Net Residential Area as determined in Section 5.31 of the Falmouth Zoning and Site Plan Review Ordinance, and the constrained land area with detailed supporting calculations.

## APPENDIX 3

### Major Subdivision Submissions

#### (A) Preliminary Plan Location Map

1. Location Map. The Preliminary Plan shall be accompanied by a Location Map drawn at a scale of not over one thousand (1000) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The Preliminary Plan shall show all the area within one thousand (1000) feet of any property line of the proposed subdivision. Within such area the Location Map shall show:
  - a. All existing subdivisions and approximate tract lines of adjacent parcels together with the names of the record owners of all adjacent parcels of land, those directly abutting or directly across any street adjoining the proposed subdivision.
  - b. Locations, widths and names of existing, filed or proposed streets, easements, and building lines pertaining to the proposed subdivision and to the adjacent properties.
  - c. The boundaries and designations of zoning districts, parks and other public spaces.
  - d. An outline of the proposed subdivision, together with its street system and an indicating of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdivider's entire holding.

#### (B) Preliminary Plan Project Maps and Information

The Preliminary Subdivision Plan shall be submitted in a number and format as determined by the Planning Department with all dimensions shown in feet or decimals of a foot, drawn to a scale of 1 inch equals not more than one hundred (100) feet, or for plans describing construction of required improvements, a scale of one inch equals forty (40) feet; drawings not to exceed 24"x36". All plans shall be accompanied by the following information:  
[Amended 8/27/07]

1. Proposed subdivision name or identifying title and the name of the municipality.
2. Name and address of record owner, subdivider and designer of Preliminary Plan.
3. Date of plan submission, true north point and graphic scale.
4. Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, watercourses and other essential existing physical features.
5. The names of all subdivisions immediately adjacent and the names of owners of record of adjacent acreage.
6. The space standard and setback provisions of the Zoning Ordinance applicable to the area to be subdivided and any zoning district boundaries affecting the subdivision.
7. The location and size of any existing or proposed sewers and water mains, culverts, hydrants, and drains on the property to be subdivided. This shall show the connections with existing sewer or water systems. Where public water and/or sewerage is not to be

provided, alternative means of water supply and sewage treatment and disposal shall be shown.

8. If individual or collective private sewage disposal system(s) is (are) proposed, the location and results of tests to ascertain subsurface soils and ground water conditions signed and numbered by a licensed site evaluator.
9. Location, names and present and proposed widths of existing and proposed streets, highways, easements, building lines, alleys, parks and other public open spaces both within and abutting the subdivision. Grades and street profiles of all streets, sidewalks or other public ways proposed by the subdivider shall be shown.
10. Contour lines at intervals of five (5) feet or at such intervals as the Planning Board may require, based on United States Geological Survey datum and referred to mean sea level.
11. A soils report identifying the soils boundaries and names in accordance with the USDA Soils Conservation Service National Cooperative Soil Classification.
12. Department of Human Services, Division of Health Engineering approval shall be included for all subsurface wastewater disposal systems designed to handle 2000 gallons per day or more. For all underground sewage disposal systems serving more than one residence, deeded rights to the system users for all properties to be used for the conveyance, treatment or disposal of sewage shall be presented in a form acceptable to the Planning Board. For all underground sewage disposal systems where sewage generated on one lot is treated on another lot, legal instruments providing the wastewater generator(s) with deeded rights to all components of the conveyance and disposal system which are acceptable to the Planning Board. For both such systems, deeded rights shall include the right of entry, inspection, repair and replacement.
13. Deed reference and map of survey of tract boundary made and certified by a registered land surveyor, tied into established reference points. Deed restrictions, if any, shall be described.
14. A surface drainage plan or stormwater management plan as required and defined in Appendix 7 of this ordinance, with profiles and cross sections drawn by a professional engineer, registered in the State of Maine, showing preliminary design of all facilities and conveyances necessary to meet the stormwater management standards as set forth in this ordinance.
15. The proposed lot lines with dimensions and suggested locations of buildings.
16. The location of temporary markers adequate to enable the Board to locate readily and appraise the basic layout in the field.
17. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
18. The location of all natural features or site elements to be preserved
19. Preliminary layout of any bridges required.
20. A grading and landscaping plan including natural features to be preserved.

Plans shall bear the seals or numbers of the registered professionals responsible for preparing appropriate sections of the plan. Site Inventory and Analysis Plans, Existing Resources and Site Analysis Plans, and landscaping plans shall be stamped by a registered landscape

Appendix 3 contd.

architect, surveys shall be stamped by a registered surveyor, engineering plans shall be stamped by registered professional engineer, soils surveys shall bear the numbers of a soil scientist, subsurface sewage disposal plans shall bear the number of the professional site evaluator responsible for those evaluations, geological evaluations shall bear a registered geologists number and architectural work shall bear the architect's seal. [Amended 12/22/05]

Applications proposing the creation of a subdivision in the Resource Conservation Zoning Overlay District shall also submit the following additional information: [Adopted 12/22/05]

21. Documentation of the four-step design process for determining the layout of proposed conservation lands, house sites, streets, and lot lines, as described in Appendix 9.

22. A Resource Impact and Conservation Plan in a number and format as determined by the Planning Department meeting the following requirements: [Amended 8/27/07]

a. The Resource Impact and Conservation Plan shall categorize the impacts of the proposed activities and physical alterations on those resources shown on the Existing Resources and Site Analysis Plan (as required under Appendix 2, Section E. 2.). All proposed improvements, including, but not necessarily limited to grading, filling, streets, buildings, utilities, and stormwater detention facilities, as proposed in the preliminary plan and related documents, shall be taken into account in preparing the Resource Impact and Conservation Plan. This plan shall clearly demonstrate that the preliminary plan will minimize site disturbance and the impacts on identified resources to the greatest extent practicable.

b. The Plan shall identify the potential impacts of the proposed development on identified resources, how the subdivision is being designed to minimize the impacts, and the activities that will be undertaken to mitigate any potential adverse impacts. The plan shall address the potential impacts on the following:

- (i) primary impact areas (i.e., areas directly impacted by the proposed subdivision),
- (ii) secondary impact areas (i.e., areas in proximity to primary areas that may be impacted), and
- (iii) designated protected areas including proposed common open space.

c. This requirement for a Preliminary Resource Impact and Conservation Plan may be waived by the Planning Board if, in its judgment, the proposed development areas, as laid out in the Sketch Plan or in the Conceptual Preliminary Plan would be likely to cause no more than an insignificant impact upon the site's resources.

23. A Preliminary Common Open Space Ownership and Stewardship Plan, in a number and format as determined by the Planning Department, if the subdivision will include common open space, that includes, but shall not necessarily be limited to, the following: [Amended 8/27/07]

a. A description of all common open space and any other lands and facilities proposed to

- be owned by the Town, or a conservation organization, or a home owners association, or that will be permanently protected by conservation easements. This description shall include a map indicating the approximate location of these lands and facilities.
- b. A description of proposed ownership arrangements for the parcels identified in 1.
  - c. A description of the proposed conservation restrictions that will permanently protect these parcels.
  - d. A description of proposed arrangements for the long-term stewardship of the common open space including management objectives and techniques for each parcel or area together with an indication of who will have the primary and secondary responsibilities for this.

(C) Final Plan Submissions

1. The Final Plan shall be submitted in a number and format as determined by the Planning Department. [Amended 8/27/07] Space shall be reserved thereon for endorsement by all appropriate agencies. The Final Plan shall show:
  - a. All of the information presented on the Preliminary Plan and Location Map and any amendments thereto required by the Board or otherwise added to the plan. Engineering plans submitted shall be final plans on which construction may be based.
  - b. The name, registration number and seal of the engineer, land surveyor, geologist, soil scientist, architect or planning consultant who prepared the plan.
  - c. Street names and lines, pedestrian ways, lanes, easements, rights-of-ways and areas to be reserved for or dedicated to public use.
  - d. The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distance and tangent bearings for each street.
  - e. 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 monuments as herein required, and shall be referenced as shown on the Plan.
  - f. Sufficient data acceptable to the municipal officials to determine readily the location, bearing and length of every lot line, and boundary line and to reproduce such lines upon the ground. Where practical these should be tied to reference points previously established.
  - g. The survey of the outside boundaries of the tract and the computation of the lot lines shall be performed to an accuracy of one foot in 5,000 feet. If requested by the Planning Board, the surveyor shall furnish copies of computation sheets for outside boundaries showing:
    - 1) sketch of traverse lines;
    - 2) closures;
    - 3) adjustments;
    - 4) coordinates; and
    - 5) computation of outside boundaries.

Appendix 3 contd.

- h. By proper designation, all public open space for which offers of cession are made by the subdivider and those spaces to which title is reserved by him.
  - i. Lots and blocks within the subdivision numbered in accordance with local practice.
- 2. There shall be submitted to the Board with the Final Plan:
  - a. A Final Common Open Space Ownership and Stewardship Plan, in a number and format as determined by the Planning Department if the subdivision will include common open space, that documents compliance with the provisions of Appendix 8. Ownership, Operation, and Maintenance of Common Use Facilities. [Amended 12/22/05] [Amended 8/27/07]
  - b. Where conveyance of public open space or easements to the Town is contemplated, a written offer to make such conveyance to the Town, and written evidence that the Municipal Officers are willing to accept such conveyances and are satisfied with the terms and conditions of the proposed conveyance and with the legal sufficiency of the proposed transfer documents. Such written evidence shall not constitute an acceptance by the municipality of any such public open space.
  - c. A performance guarantee to secure completion of all improvements required by the Board in accordance with the requirements of this ordinance.

**APPENDIX 4**  
**Minor Subdivision Submissions**

(A) The subdivision plan for a Minor Subdivision shall be submitted in a number and format as determined by the Planning Department, and drawn to a scale of not more than forty (40) feet to the inch.[Amended 8/27/07]

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 following information:

1. Proposed name of the subdivision or identifying title, and the name of the municipality in which it is located.
2. The date of submission, north point, graphic map scale, name and address of record owner and subdivider, and names of adjoining property owners.
3. Locations, widths and names of existing, filed or proposed streets, easements, and building lines pertaining to the proposed subdivision and to the adjacent properties.
4. The boundaries and designations of zoning districts, parks and other public spaces.
5. An actual field survey of the boundary lines of the tract, giving complete descriptive data by bearings and distances, made and certified by a license land surveyor. The corners of the tract shall be located on the ground and marked by monuments as herein required, and shall be referenced as shown on the Plan. The survey plan shall show dimensions and areas of each proposed lot.
6. Sufficient data to readily determine the location, bearing and length of every lot line, and boundary line and to reproduce such lines upon the ground. Where practical these should be tied to reference points previously established.
7. The survey of the outside boundaries of the tract and the computation of the lot lines shall be performed to an accuracy of one foot in 5,000 feet. If requested by the Planning Board, the surveyor shall furnish copies of computation sheets for outside boundaries showing:
  - a. sketch of traverse lines;
  - b. closures;
  - c. adjustments;
  - d. coordinates; and
  - e. computation of outside boundaries.
8. Contour lines at intervals of five (5) feet or at such intervals as the Planning Board may require, based on United States Geological Survey datum, referenced to mean sea level. Surface drainage patterns including drainage channels and watershed areas shall be shown.
9. A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification.

10. All on-site public or communal sewerage and water supply facilities shall be shown and designed to meet the minimum specifications of these standards and all pertinent state and local ordinances. Compliance shall be stated on the Plan and signed by a licensed site evaluator.
11. A surface drainage plan or stormwater management plan as required and defined in Section B of Appendix 7 of this ordinance, with profiles and cross sections drawn by a professional engineer, registered in the State of Maine, showing preliminary design of all facilities and conveyances necessary to meet the stormwater management standards as set forth in this ordinance.
12. Electrical facilities.
13. A copy of such covenants or deed restrictions as are intended to cover all or part of the tract.
14. Any other data as determined by the Planning Board to ascertain compliance with Section 3 or this ordinance.
15. There shall be submitted to the Board with the Final Plan:
  - a. Written offers of cession to the Municipality of all easements and public open space shown on the Plan, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the subdivider, are to be maintained.
  - b. Written evidence that the Municipal Officers or their appointed agent are satisfied with the legal sufficiency of the documents referred to in Paragraph a., above. Such written evidence shall not constitute an acceptance by the municipality of any public open space referred to in this Appendix.
  - c. A performance guarantee to secure completion of all improvements required by the Board and written evidence that the municipal officials are satisfied with the sufficiency of such guarantee.
  - d. Documentation of the four-step design process for determining the layout of proposed conservation lands, house sites, streets, and lot lines, as described in Appendix 9 if the subdivision is located in the Resource Conservation Zoning Overlay District.  
[Adopted 12/22/05]
  - e. A Common Open Space Ownership and Stewardship Plan, in a number and format as determined by the Planning Department, if the subdivision will include common open space, that documents compliance with the provisions of Appendix 8. Ownership, Operation, and Maintenance of Common Use Facilities. [Adopted 12/22/05]  
[Amended 8/27/07]

## **APPENDIX 5 Street Standards**

### **(A) Street Names and Signs**

1. Streets which join or are in alignment with streets of abutting or neighboring properties shall bear the same name. Names of new streets shall not duplicate nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Board.
2. Street name sign shall be furnished and installed by the subdivider. The type, size and location shall be reviewed by the Town Engineer prior to approval by the Planning Board.

### **(B) Street Classifications [Amended 5/22/89; 6/16/97]**

1. Street classification shall be based on the street's ultimate purpose or use as determined by the Planning Board after considering the location of the proposed street and the number and the nature of the uses to be served by the proposed street, both within and outside the proposed subdivision and any anticipated traffic resulting from interconnection with other streets. Dwelling unit figures are provided as an aid to the Planning Board.
  - a. Arterial Street - Falmouth's arterials are U.S. Route 1 and U.S. 100 (the Gray Road). These major streets serve to carry high volumes of traffic into, through, and out of the Town.
  - b. Collector - A street whose principal function is to carry traffic between minor, local, subcollector, and arterial streets, but that may also provide direct access to abutting properties. It serves or is designed to serve, directly or indirectly, more than 100 dwelling units and is designed to be used, or is used to carry, more than 1000 trips per day.
  - c. Subcollector - A street whose principal function is to provide access to abutting properties, but is also designed to be used or is used to connect minor and local streets with collector or arterial streets. Including residences indirectly served through connecting streets, it serves or is designed to serve at least 26 but not more than 100 dwelling units, and is expected to, or does handle, between 260 and 1000 trips per day.
  - d. Local - A street whose sole function is to provide access to abutting properties. It serves or is designed to serve at least 10 but no more than 25 dwelling units, and is expected to, or does handle, between 100 and 250 trips per day.

Appendix 5 contd.

- e. Minor Local - A street whose sole function is to provide access to abutting properties. It serves or is designed to serve not more than nine (9) dwelling units, and is expected to, or does handle, up to 99 trips per day.
- f. Street classifications for multifamily residential or non-residential uses are determined by trip generation figures for various uses indicated in the most current edition of the Institute of Traffic Engineers' *Transportation and Traffic Engineering Handbook* (Hornburger, Keefer, & McGrath, eds., Prentice-Hall, Inc., Englewood Cliffs, N.J.).
- g. In determining the classification of streets where a loop configuration is formed, the classification should be based on an analysis of routes and destinations on individual road segments rather than the full street length. [Adopted 6/16/97]

(C) Coordination of New Streets with Surrounding Street System [Adopted 6/16/97]

- 1. The street system of a subdivision should be coordinated with existing, proposed, and anticipated streets outside the subdivision.
- 2. Collector streets should intersect with surrounding collector or arterial streets at safe and convenient locations.
- 3. Subcollector, local, and minor local streets should connect with surrounding streets where necessary to permit convenient movement between residential neighborhoods, to diffuse traffic impacts on the external street system, to allow looping of public utility services, and to provide alternative access to emergency vehicles. Connections shall in any event be provided for but should not be required to actually be constructed where such connection shall cause unreasonable highway or public road congestion, or unsafe conditions with respect to use of the highways or public roads (existing or proposed) that cannot be mitigated through reasonable means (reasonable means shall include but not be limited to relocating the entrance to the proposed road; altering the design or routing of the proposed road; or use of mini-roundabouts or other traffic calming measures) .  
[Amended 4/26/04]
- 4. Whenever connections to anticipated or proposed surrounding streets are required by this section, the street right of way shall be extended to the property line at the point where the future connection is expected. The Planning Board may require pre-application analysis of adjacent lands to determine suitable connection points. Temporary turnarounds shall be constructed where appropriate.
- 5. Whenever a subdivision street continues an existing street that formerly terminated outside the subdivision, or it is expected that a subdivision street will be continued beyond the subdivision at some future time, the classification of the street will be based upon the street in its entirety, both within and outside of the subdivision.

Appendix 5 contd.

6. In the event that a higher street classification is required because of off-site street upgrades or potential extensions, the developer(s) is (are) eligible for a negotiated exactions agreement under Section 12. D. of the Subdivision Ordinance, so that subsequent developers that connect to the street(s) shall pay a proportional share of the added construction costs.

(D) Private Streets and Reserve Strips:

1. There shall be no reserve strips controlling access to streets, except where the control of such strips is placed with the Town under conditions approved by the Planning Board.
2. Private streets may be approved by the Planning Board if they meet the street standards set forth in this ordinance, except that subdivisions of 5 lots or less may be approved with unpaved private streets, provided that all other design requirements are met and the plan contains a note to the effect that the Town cannot accept the street until it is brought into conformance with all street standards.
3. Minor subdivisions containing 3 lots or less may be approved with unpaved private ways, providing that all design requirements of Section 5.27 of the Zoning and Site Plan Review Ordinance are met. Private ways are not, however, permitted in major subdivisions as a means to create additional rear lots. [Adopted, 4/24/00]

(E) Street Design Standards [Amended 5/22/89, 6/16/97]

All streets shall be designed to conform to the standards and schematic drawings contained herein.

1. Dimensions for Street Construction.

<u>Descriptions</u>	<u>Type of Street</u>	
	<u>Collector/ Subcollector</u>	<u>Local Minor</u>
Minimum Right-of-Way Width	60'	50'
Shoulder Width	6'	4'
Minimum Grade	0.5%	0.5%
Maximum Grade	8%*	8%*
Minimum Centerline Radius	230'***	150'***

\* Road sections of less than 500' lengths can add 1% to the maximum grade, provided that such sections of 9% grade are separated by a minimum distance of 500'.

\*\* For road sections with more that 5% grade, add 50' to the centerline radius for every 1% of grade over 5%.

<u>Descriptions</u>	<u>Type of Street</u>	
	<u>Collector/ Subcollector</u>	<u>Local Minor</u>
Minimum Tangent Between Curves of Reverse Alignment	200'	100'
Roadway Crown	¼"/ft.	¼"/ft.
Minimum Angle of Street Intersections	60	60
K Factor - Crest Vertical Curve	30	15
K Factor - Sag Vertical Curve	35	20
Design Speed - MPH	30	25
Maximum Grade at Intersections (within 75' of intersection)	3%	3%
Curb Radii at 90 Intersections	20'	15'
Curb Radii at 60 to 90 Intersections	30'	30'
Curb Radii at 90 to 120 Intersections	40'	30'
Minimum Property Line Radii at Intersections	10'	10'
Sidewalk Width	4'	4'

2. Sight distances - Minimum safe sight distances at intersections shall be determined by analyzing the streets per the standards of the *Transportation and Traffic Engineering Handbook*. New street entrances onto arterials, collectors, or subcollectors shall require a full traffic study, unless waived by the Planning Board upon recommendation of the Town Engineer. [Amended 5/22/89].
3. Minimum Distance Between Intersections - New street entrances onto existing or proposed streets shall be separated per the table below:

	<u>Arterial</u>	<u>Collector/ Subcollector</u>	<u>Local/Minor</u>
Minimum Distance Between Intersections			
Same Side	400'	400'	300'
Opposite Sides	300'	250'	150'

4. Pavement Widths and Sidewalks - Pavement width and sidewalk requirements for each of the street construction classifications shall be as indicated in the following table: [Amended 5/22/89].

<u>Street Type</u>	<u>Minimum Pavement Width (in feet)</u>	<u>Sidewalk Requirement*</u>
Collector	34'	One side
Subcollector	30'	One side
Local	24'	One side
Minor local	22'	None

\* Sidewalks may be waived by the Planning Board in the RC and FF Districts

5. Dead End Streets

- a. This section applies to local and minor local streets only. Dead end streets are permitted to provide access to residential neighborhoods in a way that discourages through traffic, limits travel distances from residences to collector roads, keeps traffic volumes and speeds low, and provides a quiet neighborhood setting. To achieve these goals while developing a coordinated street network as described in Subsection (C) of this appendix, dead ends should only be used in locations where it is unlikely that there will be a need for interconnections between adjacent subdivisions and the existing or proposed street network.

In those cases where the Planning Board allows a dead end street with no through connection for vehicular traffic, the Board shall require pedestrian and bicycle connections. [Amended 6/16/97, 4/26/04]

- b. Presentation of special design, discussion and written permission by the Planning Board shall be a requirement for those conditions that may require a dead end street under the category of Subcollector, Collector, Industrial, or Commercial. [Amended 6/16/97]
- c. Maximum length of Dead End Street: 1500 feet measured from the centerline of feeder street to center of turnaround. In those cases where on or off-site street configurations create an effective dead end condition, the dead end length is measured from the point where only one means of access exists and extends over the intervening roadway length(s) to the point of turnaround. [Amended 6/16/97]
- d. Maximum length of Dead End Street in RC and FF Districts shall be 1500 feet with a maximum of fifteen (15) single family homes or less, based upon an evaluation by the Planning Board of site conditions. [Amended 6/16/97]

- e. Radii of cul-de-sac turnaround at end: [Amended 5/22/89, 7/22/91, 6/16/97]

Property Line	75'
Outer Edge of pavement	60'
Inner Edge of pavement	42'

- f. The Planning Board may allow the use of an alternative turnaround design per the following requirements [Amended 6/16/97]:

- Dimension of turnaround at end:
  - Distance from street end 50'
  - Dimensions of easement 50' x 50'
  - Dimensions of pavement 22' x 40'

- g. The maximum dead end length in conservation subdivisions may be waived by the Planning Board upon a finding that the waiver is needed due to the remote location of optimum building sites as determined by the four-step design process of Appendix 9, and provided that at least two paper street locations are established for interconnection with existing or potential adjacent development(s). The requirement for multiple paper streets may be reduced or eliminated upon a showing that the establishment of such interconnection(s) is precluded by physical barriers that cannot be surmounted by standard construction practices, or that adjacent parcels are fully developed with no provision for street interconnection. [Adopted 12/22/05]

6. Rural Road Design for Conservation Subdivisions [Adopted 12/22/05]

The overriding theme is to allow and encourage flexibility in the application of road design standards to meet the specific needs of individual sites. In general, roads would be required to follow and work with the natural topography rather than altering it to produce straighter, gently sloping road grades.

a. Objectives for New Rural Roads

- i. Design with creativity and sensitivity to minimize impacts on scenic, open space, archaeological, social, cultural, and environmental resources;
  - ii. Reduce emphasis on automobile mobility and efficiency and put more emphasis on land access and fitting into the natural surroundings;
- and,

- iii. Increase flexibility and sensitivity to the context and unique character of the site, the surrounding landscape, and the vision for the property being developed.

b. Guidelines for Road Planning

- i. Horizontal road alignments should work with the topography and existing site conditions to follow the natural contours and avoid physical features that give the land its character.
- ii. Where feasible, proposed roads should follow existing dirt/gravel roads, especially when they have value as a local historic resource.
- iii. Where existing roads must be widened to accommodate increased traffic volumes, care should be taken to preserve mature roadside trees and other features which contribute to the road's character.
- iv. Open fields, agricultural lands, and sensitive habitats should be crossed at the edges, preferably along hedgerows and tree lines. Roadways should be avoided bisecting fields.
- v. When roads cross significant viewsheds in open fields, consideration should be given to design approaches that will minimize their visual impact. These may include earth berms (designed with gently tapered side slopes), landscape screening using native shrubs, and 'ha-ha's' (an old English tradition which puts the roadway in a slight depression and out of view).
- vi. In unusual situations it may be advantageous to split the roadway to preserve significant trees, rock outcrops, and similar features. Care must be taken in these situations to minimize root disturbance and maintain a suitable setback between the edge of the pavement and the object being preserved.
- vii. The view FROM the roadway should be considered as well as the view OF the road.

c. Guidelines for Road Construction /Details

- i. Grading easements or wider than normal rights of way can be effective to blend the side slopes into the existing topography.
- ii. Where drainage culverts are visible, the ends should be cut off to follow the contour of the surrounding grade and/or covered with stone.

- iii. Guardrails should be constructed of wood or self-oxidized steel to avoid a harsh industrial appearance.
- iv. Steep slopes adjacent to roadway should be stabilized with hardy groundcovers and native plantings following current bioengineering practice.
- v. Where rip rap must be used to stabilize slopes and protect stream channels, it should be hand placed (not dumped) and constructed of native stone. The use of freshly crushed stone with a high level of color contrast should be avoided.
- vi. Where stone walls must be crossed, the ends should be rebuilt in keeping with local stone wall construction. Stones disturbed during construction should be stockpiled for later re-use in the subdivision as a way of preserving the character of the landscape.

d. Modification of Engineering Standards

In order to meet the guidelines of subsections b. and c. above, the following subdivision standards may be modified with Planning Board approval to the extent necessary to accomplish the stated guidelines and objectives:

- i. Road curvature (horizontal and vertical);
- ii. Distance between reverse curves;
- iii. Road grade limits;
- iv. Limits of clearing; and,
- v. Drainage.

7. Pavement Design

The Subdivider shall be required to investigate and determine the types and classifications of the sub-base soils. Computations shall be made to determine pavement design standards for construction, which shall be submitted for review by the Public Works Director. If, during construction, subsurface soils vary from original classifications, pavement design shall be modified to meet the new classification. Revised pavement shall be modified to meet the new classification. Revised pavement design shall be submitted to the Public Works Director for approval.

(F) Roadway Construction Materials Standards

- 1. Roadway construction materials standards as specified herein shall conform to the current specifications of the Maine Department of Transportation.



topographical conditions, deviation from the above will be allowed only with special approval of the Planning Board.

a. Preparation

Before grading is started, the entire right-of-way area shall be cleared of all stumps, roots, brush and other objectionable material and all trees not intended for preservation.

b. Cuts

Tree stumps and other organic materials shall be removed to a depth of 2 feet below the subgrade. Rock and boulders, when encountered, shall be scarified to subgrade.

c. Fill

All material used in the construction of embankments shall be of the quality to meet the standards for embankment of Transportation Standard Specifications. Excess materials including organic materials, soft clays, wet and noncompactible materials, etc., shall be removed from the street site. The fill shall be spread in layers not to exceed 12" loose and compacted: 80% of optimum for sub-base, 95% of optimum for base. The filling of utility trenches and other places shall be mechanically tamped.

d. Side Slopes

All side slopes shall be at a slope of 4 horizontal to 1 vertical except for rural design local streets which may have maximum side slopes of 3 horizontal to 1 vertical. Where cut and fill slopes necessary to meet this and other standards would exceed the right of way width, the right of way width shall be increased to cover all such cut and fill land and to provide adequate space for maintenance access. Slopes and shoulders shall be appropriately vegetated in accordance with an erosion control plan as required in Appendix 7 of this Ordinance.

2. Bases and Pavement

The appropriate sections of the Bases and Pavements Divisions of the Maine Department of Transportation Standard Specifications currently in effect at the date of submission of the preliminary plan shall be applicable to this section except as follows:

Bases

a. Aggregate Sub-base Course - Gravel

Aggregate sub-base shall not contain particles of rock exceeding 3" in any dimension.

b. Aggregate Base Course - Crushed

Appendix 5 contd.

Aggregate base shall not contain particles of rock that will not pass the 2” square sieve.

Pavement

- c. Where pavement placed joins an existing pavement, the existing pavement shall be saw cut along a smooth line and to a neat, even vertical joint. No broken or raveled edges and no deviation from grade will be permitted.
- d. Grading for the surface course of Hot Bituminous Pavement (Grading C-1) shall be as follows:

<u>Sieve Designation</u>	<u>% By Weight Passing Square Mesh Sieves Grading C-1</u>
1/2”	100
3/8”	75-100
No. 4	50-85
No. 8	35-70
No. 16	23-57
No. 30	15-44
No. 50	10-30
No. 100	6-22
No. 200	3-8

- e. Grading for the base course of Hot Bituminous Pavement shall meet the requirements for Binder, Grading B.

3. Curbing

Section 609 of the Maine State Highway Commission Standard Specifications, revision of June 1968, shall be applicable to this section except as follows:

- a. Curbing shall be limited to Type 1, Type 2, Type 3, and Type 5.
- b. Vertical or sloped curbing shall be used in accordance with the design standards set forth herein for the particular type of street.

4. Sidewalks

Section 608 of the Maine State Highway Commission Standards Specifications, revision of June, 1968, shall be applicable to this section.

Appendix 5 contd.

All driveway aprons shall be paved with 2" of bituminous concrete from the gutter side or edge of street pavement to the street right-of-way.

(H) Monuments

1. Concrete monuments 4" in diameter or square, 4' long with a flat top shall be set at all street corners, at all points where the street line intersects the exterior of the subdivisions and at angle points and points of curve in each street and on each side of the streets. The top of the monument shall have an indented cross to identify properly the location and shall be set flush with the finished grade.
2. All other lot corners shall be marked with iron pipe not less than 3/4" in diameter and 24" long and driven so as to be flush with the finished grade.

(I) Street and Storm Drainage Plans

Construction plans for streets and storm drainage systems shall be designed and prepared by a professional engineer registered in the State of Maine. Plans shall show the plan, profile, cross sections and details of appurtenances. [Amended 8/27/07]

No construction will be permitted until the Planning Board has approved construction drawings. The developer is alerted to other approvals and permits which are required prior to construction. Upon completion of construction and prior to acceptance of the streets, a final set of reproducible record drawings will be required.

## **APPENDIX 6**

### **Inspection of Required Improvements**

#### **(A) Monumentation**

Granite monuments shall be set at all outside corners off the proposed subdivision tract and checked by the Public Works Director prior to final approval. A minimum of three (3) granite monuments shall be set at appropriate corners of the perimeter of the proposed subdivision tract and subject to the approval of the Public Works Director. All granite monuments shall be four (4) feet long and six (6) inches above ground, except in lawns, drives, and parking lots where they shall be flush. If the subsurface is ledge between one (1) and four (4) feet deep, a two-foot diameter concrete encasement based on the ledge shall be required. If the ledge is less than one (1) foot deep, a one inch steel rod shall be grouted into the ledge. The position of any monument shall be the sole responsibility of the surveyor(s).

#### **(B) Street Signs**

Street name signs shall be installed at all street intersections in accordance with the design and specifications set forth by the Public Works Director. All costs incurred, including but not limited to, the cost of the sign and installation costs, shall be at the developer's expense.

#### **(C) Field Changes**

If at any time before or during the construction of the required improvements the subdivider demonstrates to the satisfaction of the Public Works Director that unforeseen field conditions make it necessary to make *de minimus* (minor) adjustments in the location or design of such required improvements, the Public Works Director may authorize such *de minimus* modifications, provided they are within the spirit and intent of the Planning Board's approval and do not waive or substantially alter the requirements of the Board or result in any violation of the Ordinances of the Town of Falmouth.

The Public Works Director 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. The Planning Board may require that notice of such *de minimus* modifications be shown on an "as built" plan and be recorded in the Cumberland County Registry of Deeds.

#### **(D) Maintenance of Improvements**

If the Town Manager shall find, upon inspection of the improvements performed before the expiration date of the performance guarantee, 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 Board and Council. The Municipal Officers shall then notify the subdivider and, if necessary, the financial institution, and take all necessary steps to preserve the municipality's rights under the guarantee. No plan shall be approved by the Planning Board as long as the subdivider is in default on a previously approved Plan.

Appendix 6 contd.

(E) Actions Against Performance Guarantees

The subdivider shall be responsible for all maintenance, such as but not limited to, snow removal, utility lines, street repair, and surface drainage, prior to official acceptance by the Town.

(F) Release of Performance Guarantees

Before a subdivider may be released from any obligations required by his guarantee of performance, the Town Manager shall certify that all improvements have been satisfactorily completed in accordance with all applicable standards, state and local codes and ordinances.

## **APPENDIX 7**

### **Stormwater Management**

#### **(A) Intent**

An adequate stormwater control and conveyance system shall be provided, including appurtenances such as sediment and detention basins, manholes and piped or professionally designed ditch conveyance systems, to assure that stormwaters discharged from the site are in compliance with the guidelines contained in Section 3 and all other requirements of this ordinance.

#### **(B) Stormwater Management Plan Required**

All Subdivision Applications shall contain a surface drainage plan with profiles and cross sections drawn by a registered professional engineer. This plan shall show ditches, culverts, easements, and other proposed improvements, with the statement in writing attached to the drainage plan indicating that the proposed subdivision will not create erosion, drainage, or runoff problems either in the subdivision or in adjacent properties, and file with the Planning Board properly executed easements as required by the Public Works Director. The plan shall also contain a soil erosion and sediment control plan meeting the requirements of Section 5.39 of the Zoning and Site Plan Review Ordinance and containing the endorsement of the Cumberland County Soil and Water Conservation District. The plan shall also include a post-construction monitoring plan pursuant to Section 5.39A of the Zoning and Site Plan Review Ordinance. [Amended 9/22/03; 9/14/09]

Applications submitted pursuant to this ordinance for projects which will expose more than 60,000 square feet of soil at one time or which will produce more than 10,000 square feet of additional impervious surface must submit a stormwater management plan to the Planning Board for its review and approval, unless the development's storm sewer or ditch network discharges directly into the Presumpscot River or the Atlantic Ocean. Stormwater management plans shall conform to the requirements for a surface drainage plan and shall also meet the requirements of Section 3 of this Appendix.

#### **(C) Performance Standards**

Stormwater Management Plans shall show means whereby the peak discharge for the developed site shall not exceed the peak discharge for the undeveloped site for the 2, 10, and 100 year storm. Sediments and other pollutants shall be limited, through appropriate management practices, to prevent adverse downstream water quality impacts. Regulations specifying hydraulic calculation techniques and design standards for facilities to achieve this performance standard may be adopted by the order of the Council.

#### **(D) Design Standards**

1. All stormwater systems within the subdivisions shall be designed to meet the criteria of the performance standards based on rainfall data from weather bureau records in Portland.

Appendix 7 contd.

Flows shall be computed by appropriate professional methods with design computations being submitted for approval.

2. Upstream drainage shall be accomplished by an adequately sized system through the proposed subdivision for existing conditions and future potential development in the upstream drainage area or areas tributary to the proposed subdivision, as determined by the Planning Board.
3. Existing downstream drainage facilities shall be studied to determine the effect of the proposed subdivision's drainage. The developer shall demonstrate to the satisfaction of the Planning Board that the storm drainage from the proposed subdivision will not, in any way, overload or damage existing storm drainage systems downstream from the proposed subdivision.
4. 300 feet shall be considered as the maximum length for carrying open storm water in a street gutter prior to intake at a catch basin for all zones except the Farm and Forest Zone. No stormwater will be permitted to drain across a street or across an intersection.
5. Minimum pipe size for any storm drainage pipe shall be 12 inches.
6. Where open ditches, channels, streams or natural drainage courses are used, either to collect or discharge stormwater, adequately sized perpetual easements shall be provided. Minimum width shall be 30 feet. Approval of the Planning Board shall be required for any open storm drainage system.
7. Where subsurface soils are of the nature requiring an underdrainage system, underdrains shall be installed so that they are discharged by gravity.
8. House foundation drains may be connected to the storm drainage system upon approval by and under the direction of the Public Works Director.
9. All pipe shall be designed to flow at a velocity of two fps. When flowing  $\frac{1}{4}$  full.

(E) Storm Drainage Construction Standards

1. Materials:

The following types of new material shall be utilized for storm drain construction:

- a. Reinforced Concrete Pipe - Reinforced Concrete Pipe shall meet the requirements of ASTM Designation C-76. Pipe classes of safety of 1.2 on the 0.01 inch crack strength with a class B bedding. Joins shall be of the rubber gasket type meeting ASTM Designation C 443-70, or of an approved preformed plastic jointing material such as "Ramnek".

Appendix 7 contd.

- b. Underdrain Pipe - Underdrain Pipe may be of perforated bituminous coated corrugated metal or other pipe meeting similar requirements to that of standard drain pipe.
- c. Catch Basins - Catch Basins shall be of precast concrete construction. Castings shall be square cast iron cascade grate and frame as required for the particular inlet condition with the gratings perpendicular to the curb line. All catch basins shall be provided with a Type I curb face inlet. Precast sections shall meet the requirements of ASTM Designation C-478 and C-76.

(F) General Construction Requirements

- 1. Trenching - All trenching shall be accomplished in accordance with all appropriate state and federal requirements.
- 2. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus 2 feet.
- 3. Pipe shall be bedded in a granular material with a minimum depth of 6 inches below the bottom of the pipe and extending to 6 inches above the top of the pipe.
- 4. Drain alignment shall be straight in both horizontal and vertical alignment, unless specific approval of a curvilinear drain is obtained in writing from the Planning Board.
- 5. Catch basins shall be provided at all changes in vertical or horizontal alignments, and at all junctions. On straight runs, catch basins shall be placed at a maximum of 400 foot intervals.
- 6. All drain outlets shall be terminated in an endwall of concrete construction, or shall be riprapped to prevent erosion. Facilities for energy dissipation shall be provided.
- 7. Underdrains shall be laid with perforation down.

**APPENDIX 8**  
**Ownership, Operation, and Maintenance of Common Use Facilities**

(A) Definitions

The following terms shall have the following definitions for the purposes of this Appendix 8:

1. Private Common Use Improvements

Privately owned improvements to a subdivision which will be commonly used by more than one separately owned dwelling, lot, unit, or building. Such improvements may include, but are not limited to, private streets, private wastewater disposal systems, private water supply systems, or private recreational facilities in or for common use.

2. Developer

Any person, firm, corporation, or other entity proposing to establish one or more private common use improvements designed and intended to serve more than one dwelling, lot, unit, or building, including an Association of owners of adjacent developed properties.

3. Owner

The record owner of a dwelling, lot, unit, or building served or to be served by private common use improvements.

(B) Private Common Use Improvements Permitted

No private common use improvements shall be permitted unless the owner or owners of all properties to be served thereby are or will be made parties to, and their properties made subject to, an effective recorded declaration or agreement (hereinafter the "Declaration") in a form satisfactory to the Planning Board providing for the continuous maintenance, operation, management, and eventual replacement of such private common use improvements in accordance with the terms of this Appendix 8 and the guidelines contained in Section 3, the provisions of such Declaration to be covenants which run with the land of each such owner.

(C) Establishment of Association

In order to ensure that a subdivision remain in compliance with the guidelines contained in Section 3 and the other requirements of this ordinance, the Planning Board may require that the declaration shall provide for the formation of a non-profit Maine corporation which shall be a compulsory Association of all owners from time of all properties to be served by the private common use improvements. Such Association shall be provided with sufficient funds by the developer to meet its anticipated expenses for one year after the date on which the

Appendix 8 contd.

management of the Association is to be turned over to the owners of the dwellings, lots, units, or buildings to be served.

(D) Management by Developer

Until the management of the Association is turned over to the owners of the dwellings, lots, units, or buildings to be served by the private common use improvements, all of the duties and responsibilities of the Association and all of its rights and powers, including the assessments and collection of charges, shall be exercised by the developer.

(E) Condition of Improvements

At the time that responsibility for the private common use improvements is transferred to the Association, all components of such private common use improvements shall be in good operating order and condition and in compliance with all applicable laws, codes, and regulations. The Association shall not divest itself of responsibility for such private common use improvements except (1) to a duly constituted, responsible public body in connection with that body's assumption of part or all of the responsibilities for the private common use improvements, or (2) upon approval by the Planning Board of the discontinuance of such private common use improvements.

(F) Association Duties

After the transfer of responsibility to the Association for the private common use improvements, the Association shall operate, maintain, repair and replace the same in accordance with the Declaration and all applicable laws, codes, and regulations, and shall meet the following requirements:

1. It shall elect officers who shall be responsible for performance of the duties of the Association;
2. It shall cause the regular inspection of the private common use improvements at intervals specified by the Planning Board;
3. It shall make appropriate arrangements for the timely management, operation, maintenance and eventual replacement of all private common use improvements;
4. It shall pay in a timely fashion all expenses necessary or incidental to the performance of its functions and responsibilities.

(G) Assessments to Owners

The Declaration shall provide that the Association shall establish and collect from its member's assessments sufficient to perform its duties hereunder and as provided in the Declaration, including supplemental or emergency assessments upon its members to cover

any deficits or emergency requirements. The assessments shall include amounts for additions to reserves for major periodic repairs, contingencies and replacements based upon the full, life-cycle cost of the private common use improvements. The Declaration shall include procedures by which the Association can compel any owner to correct any deficiency, malfunction, or other problem on the owner's own property, which affects the operation or integrity of the private common use improvements or can correct the same itself and recover its expense therefore by special assessment against that owner.

(H) Collection Procedures

The Declaration shall establish procedures by which payment of all assessments for the management, operation, maintenance and eventual replacement of the private common use improvements can be required. The Declaration shall provide, without limitation, and to the maximum extent permitted by law, that such assessments together with interest thereon and costs of collection thereof shall be a charge on the real estate, dwelling, lot, unit, or building, with respect to which such assessments are made and shall be a lien against such real estate, dwelling, lot, unit, or building. The Declaration shall also provide that each such assessment, together with interest thereon and costs of collection thereof, shall also be the personal obligation of the person who is the owner of such assessed real estate, dwelling, lot, unit, or building at the time when the assessment falls due.

(I) Additional Powers

The Declaration shall also authorize the Association to adopt and amend by-laws for conduct of its internal affairs and to have and exercise powers and functions in addition to the foregoing, provided that no by-law, power, function, or other action of the Association shall vary, interfere with, or jeopardize its compliance with this Appendix, or diminish its capacity to manage the private common use improvements in a continuous, responsible manner.

(J) Additional Requirements for Common Open Space in Conservation Subdivisions [Adopted 12/22/05]

1. Executory Interest. If any common open space will be owned by a homeowners or community association or a private landowner, the owner(s) shall convey an executory interest with power of termination to the Town of Falmouth.
2. Conservation Provisions. The common open space shall be protected from development or intensive use and shall be maintained as undeveloped open land and/or active or passive recreation land but may include other support uses as approved by the Planning Board as part of the approval of the subdivision. Permanent conservation restrictions shall be established, subject to approval by the Planning Board, to assure that the future use and maintenance of the common open space is consistent with the subdivision approval. These provisions may include deed restrictions or covenants, conservation easements, the sale or transfer of development rights, or other legal mechanisms approved by the Planning Board.

3. Stewardship Provisions. Legally binding provisions shall be established in the conservation restriction tool (e.g., deed, easement) for the periodic monitoring of the use and maintenance of the common open space to ensure that the terms of the restrictions are being met. The monitoring shall occur at least once every two years on an ongoing basis. The party or organization designated to conduct the monitoring shall be qualified in land conservation and resource management, shall have an established record in land management or the oversight of conservation easements or restrictions, shall be willing to assume the review obligation, and shall be subject to approval by the Planning Board.

The party conducting the monitoring shall prepare a written report summarizing the findings of the monitoring and identifying any issues with compliance with the conservation provisions. A copy of the report shall be provided to the owner and the Planning Department within thirty (30) days of the monitoring. The stewardship arrangements shall provide for the enforcement of the conservation provisions by the Town of Falmouth against the owner of the property if the reviewer finds that the conservation provisions are not being met and for the ability of the Town to charge the owners of the property with the costs of enforcement of the provisions.

4. Stewardship Account. A Stewardship Account shall be established by the applicant for all land with conservation restrictions and shall be held and managed by the property owner or grantee. The purpose of this account shall be to pay the costs of the biennial monitoring. The amount of this fund shall be adequate to assure the required monitoring and shall be approved by the Planning Board.

Based on the experience of land trusts in establishing stewardship accounts for lands they monitor, the costs of doing biennial inspections for a period of 20 years to confirm adherence to the terms of open space dedication ranges between \$5000 and \$10,000 depending on the size of the open space parcel. The applicant shall submit a proposal to the Planning Board for an amount within this range, which shall be submitted for peer review prior to final approval.

If the Town holds an executory interest in a property with conservation restrictions or is asked to take ownership of a property, the applicant shall deposit funds required by the Planning Board in the Town's Stewardship Fund. Prior to release of the approved plan, the applicant shall provide the Town Planner with evidence that the Stewardship Account has been established and funded, or that full payment has been made to the Town's Stewardship Fund.

(K) Inspection by the Town:

The Declaration shall provide that:

1. Upon request by the Code Enforcement Officer, Plumbing Inspector, or Town Engineer, the Association shall produce for inspection and copying at the Falmouth Town Hall, or permit the inspection and copying at its own office of, any or all of its corporate,

Appendix 8 contd.

financial, operating, inspection, and maintenance records, reports, contracts, budgets and other papers, for the purpose of determining its performance of any compliance with the requirements of the Declaration and this Appendix 8;

2. The Code Enforcement Officer, the Plumbing Inspector, or his authorized representative, or the Town Engineer, and other duly authorized employees of the Town bearing proper credentials or identification, shall be permitted to enter at all reasonable times, upon all real or personal property necessary to the operation of the private common use improvements, for inspection, observation, measurement, sampling, and testing related to the operation, maintenance, and repair of the private common use improvements.

(L) Penalties

In the event that any developer, Association, or owner is found to be in violation of any provision of a Declaration established under this Appendix 8, such violation shall be deemed a violation of this Appendix 8 and in addition to remedies available to other interested persons, the Town of Falmouth shall have all powers of enforcement with respect to such violation as it has with respect to violations of this Appendix 8.

**APPENDIX 9**  
[Adopted 12/22/05]

**Four Step Design Process for Subdivisions in  
the Resource Conservation Zoning Overlay District**

All subdivisions shall be designed in accordance with the following four step process. The submission for the preliminary plan of a major subdivision or the final plan of a minor subdivision (if required by the Planning Board) shall include documentation of the four-step design process for determining the layout of the subdivision including proposed conservation lands, house sites, streets, and lot lines in accordance with the following process. Applicants shall submit four separate sketch maps indicating the findings of each step of the design process, if so requested by the Planning Board.

**Step 1: Delineation and Design of Common Open Space**

**Step 1A. Delineation of Common Open Space**

The area to be designated as common open space or otherwise preserved as part of the development shall be delineated based upon the Primary and Secondary Conservation Areas as defined by the Zoning and Site Plan Review Ordinance. The proposed common open space in conservation subdivisions shall be identified in accordance with the following: [Amended 12-17-07]:

1. The minimum percentage and acreage of required common open space shall be calculated by the applicant and submitted in accordance with the provisions of this ordinance and of the Zoning Ordinance.
2. The proposed common open space shall be designated using the Site Analysis Sketch Plan as a base.
3. The Primary Conservation Areas on the site shall be delineated and shall be incorporated into the common open space in accordance with Section 3.13 of the Zoning and Site Plan Review Ordinance.
4. The Secondary Conservation Areas on the site shall then be delineated. In delineating Secondary Conservation Areas, the applicant shall prioritize natural and cultural resources on the tract in terms of their highest to lowest suitability for inclusion in the proposed common open space based upon the priorities set forth in the Zoning and Site Plan Review Ordinance
5. On the basis of those priorities and practical considerations related to the tract's configuration, its context in relation to resource areas on adjoining and neighboring properties, and the applicant's subdivision objectives, sufficient Secondary Conservation Areas shall be identified to be included in the common open space to meet at least the minimum area percentage requirement for common open space. This delineation shall clearly indicate the boundaries as well as the types of resources included within them.

### **Step 1B. Design of Common Open Space**

1. All open space areas shall be part of a larger continuous and integrated open space system within the parcel being developed. At least 75 percent of the common open space shall be contiguous to another common open space area. For the purposes of this subsection, areas shall be considered contiguous if they are within 100 feet of each other and there are no impediments to access between the areas.
2. Common open space shall, to the greatest extent possible, protect site features identified in the Existing Resources and Site Analysis Plan.
3. Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or to restore their overall condition and natural processes, as recommended by natural resource professionals and in compliance with an approved Common Open Space Ownership and Stewardship Plan as provided in Appendix 3 for major subdivision submissions and Appendix 4 for minor subdivision submissions.
4. No area of common open space shall be less than 50 feet in its smallest dimension and less than 10,000 square feet in area. Open space not meeting this standard is allowed as an added project enhancement, but shall not be counted toward the required project common open space.
5. The boundaries of common open spaces shall be marked by natural features wherever possible, such as hedgerows, stone walls, edges of woodlands, streams, or individual large trees. Where no such existing demarcations are present, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where the common open space ends and private lot areas begin. Where structural demarcations, such as fences are used, they shall be the minimum needed to accomplish this objective.
6. Common open space shall include lands located along existing public streets in order to preserve existing rural landscape character as seen from these streets, and shall, in no case, contain less than the required buffer, setback area, or separation distance.

### **Step 2: Location of Building Sites**

Potential building sites shall be tentatively located taking into consideration the proposed common open space and/or the Primary and Secondary Conservation Areas identified in Step 1 as well as other relevant data from the Site Inventory Plan and Site Analysis Sketch Plan, such as topography and soils. Building sites should generally be located at least 100 feet from Primary Conservation Areas and at least 50 feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of development on such areas as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences and other uses.

### **Step 3: Alignment of Streets and Ways and Creation of a Trail System**

Based upon the designated building sites, a circulation plan shall be designed to provide vehicular and pedestrian access to each site. The street layout shall bear a logical relationship to topographic conditions. Impacts of the street plan on proposed Conservation Lands as defined in this Ordinance, Primary Conservation Areas, and Secondary Conservation Areas as defined in the Zoning and Site Review Ordinance shall be minimized, in accordance with Section 3.13 of the Zoning and Site Plan Review Ordinance. Street connections shall generally be encouraged to minimize the number of new cul-de-sacs and to facilitate access to and from buildings in different parts of the subdivision. A trail system shall be created within the common open space to provide access from the subdivision homes to the open space network created by the subdivision. [Amended 12-17-07]

#### **Step 4: Drawing in the Lot Lines**

Upon completion of the preceding three steps, lot lines shall be drawn as required to delineate the boundaries of individual lots. Lots shall be designed in keeping with the standards for individual lots found in Section 3.13.5 D. of the Zoning and Site Plan Review Ordinance and shall be further designed to provide each residence with a clear delineation of its property bounds and with useable yard spaces.