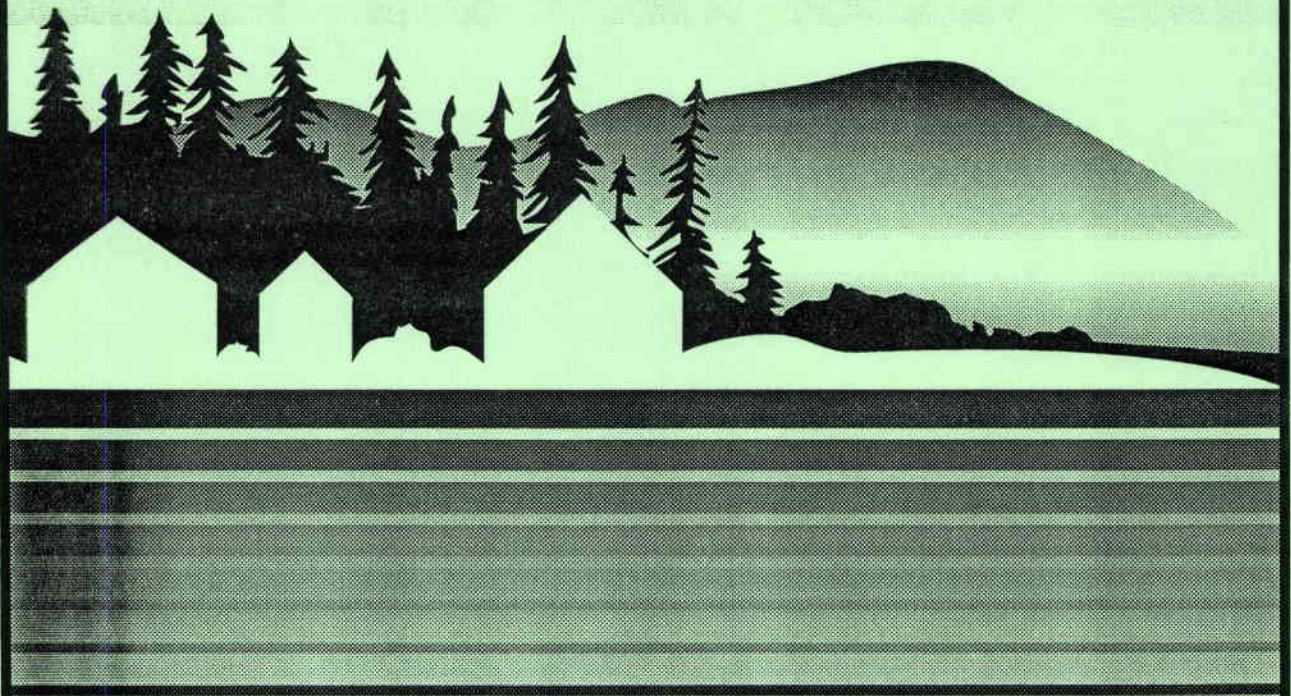


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Town Of

# Mars Hill Subdivision Ordinance

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Prepared By:  
Northern Maine  
Development Commission

TPD  
MARS HILL

**Section 1 Purpose**

The purpose of this Ordinance shall be:

- A. To assure the comfort, convenience, health, safety, and general welfare of the inhabitants of Mars Hill;
- B. To provide for an expeditious and efficient process for the review of proposed subdivisions;
- C. To clarify the criteria of the state Subdivision Law, Title 30-A, MRSA, Sections 4401-4406;
- D. To assure that new development in the Town of Mars Hill meets the goals and conforms to the policies of the Mars Hill Comprehensive Plan;
- E. To minimize the potential impacts from new subdivisions on neighboring properties and on the town; and

**Section 2 Authority, Administration, and Effective Date**

**A. Authority**

- 1. This Ordinance is adopted pursuant to and consistent with Title 30-A, MRSA, Section 4401-4406 and Section 3001.
- 2. This Ordinance shall be known and cited as the "Subdivision Ordinance of the Town of Mars Hill".

**B. Administration**

- 1. The Planning Board for the Town of Mars Hill, hereinafter called the Board, shall administer this Ordinance.
- 2. The provisions of this Ordinance shall apply to all of the land and buildings of all proposed subdivisions, as defined, located in the Town of Mars Hill.

**C. Effective Date**

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

**Section 3 Definitions**

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning. In the case of any difference of meaning or implication between the text of this Ordinance and any map, illustration, or table, the text shall control.

The word "person" includes firm, association, organization, partnership, trust, company, or corporation, as well as an individual or any other legal entity.

The present tense includes the future tense, the singular number includes the plural, and the plural numbers includes the singular.

The words "shall" is mandatory, the word "may" is permissive.

The word "lot" includes the words "plot" and "parcel".

The words "used" or "occupied", as applied to any land or building, shall be construed to include the words "intended, arranged, or designed to be used or occupied."

The word "town" means the Town of Mars Hill, Maine.

**Accessory Use or Structure:** A use or structure which is customarily and in fact both incidental and subordinate to the principal use of the structure. The term "incidental" in reference to the principal use or structure shall mean subordinate and minor in significance to the principal use or structure. Accessory uses, when aggregated, shall not subordinate the principal use of the lot.

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

**Authorized Agent:** Any one having written authorization to act in behalf of a property owner, signed by the property owner.

**Average Daily Traffic (ADT):** The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

**Basement:** The enclosed area underneath a structure, typically having a masonry floor and walls which comprise the structure's foundation. The clear height up to the joists supporting the floor directly above is three (3) feet or greater.

**Building:** Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals, or personal property.

**Building Setback Line (BSL):** That line that is the required minimum distance from the street right-of-way line or any other lot line that establishes the area within which the principal structure must be erected.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

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

**Cluster Subdivision:** A subdivision in which the lot sizes are reduced below those normally required in the zoning district in which the development is located in return for the provision of permanent usable open space.

**Code Enforcement Officer (CEO):** A person appointed by the town officers to administer and enforce this Ordinance. Reference to the Code Enforcement Officer may be construed to include Building Inspector, Plumbing Inspector, Electrical Inspector, and the like, where applicable.

**Common Open Space:** Land within or related to a subdivision, not individually owned, which is designed and intended for the common use or enjoyment of the residents of the subdivision or the general public. It may include complementary structures and improvements, typically used for maintenance and operation of the usable open space, such as for outdoor recreation.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Planning Board to waive the submission of required information, and a vote by the Planning Board that the application and submissions are complete.

**Complete Substantial Construction:** The completion of no less than thirty percent the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

**Comprehensive Plan:** A document adopted by the Town Council, containing an inventory and analysis of existing conditions, a compilation of goals for the development of the community, an expression of policies for achieving these goals, and a strategy for implementation of the policies.

**Conservation Easement:** A non-possessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or usable open space values of real property; assuring its availability for agricultural, forest, recreational or usable open space use; protecting

natural resources; or maintaining air or water quality.

**Density:** The number of dwelling units or other principal uses per acre of land.

**Driveway:** A vehicular access-way or private way which provides vehicular access to a public road.

**Dwelling:** A room or group of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters. The term shall include mobile homes, but not recreational vehicles.

**Single-Family Dwelling:** A building containing only one (1) dwelling unit for occupation by not more than one (1) family.

**Two-Family Dwelling:** A building containing only two (2) dwelling units, for occupation by not more than two (2) families.

**Multi-Family Dwelling:** A building containing three (3) or more dwelling units, such buildings being designed for residential use and occupancy by three (3) or more families living independently of one another; with the number of families not exceeding the number of dwelling units.

**Dwelling Unit:** A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, sleeping, facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums.

**Easement:** A right, such as a right-of-way, afforded a person to make limited use of another's real property.

**Engineered Subsurface Waste Water Disposal System:** A subsurface waste water disposal system designed, installed, and operated as a single unit to treat 2000 gallons per day or more; or any system designed to treat wastewater with characteristics significantly different from domestic wastewater.

**Family:** One or more persons occupying a premises and living as a single housekeeping unit.

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

**Floodplain:** The lands adjacent to a body of water which have been or may be covered by the base flood.

**Freshwater Wetland:** Freshwater swamps, marshes, bogs and similar areas, other than forested wetlands, which are:

1. Of ten (10) or more contiguous acres; or of less than ten (10) contiguous acres and adjacent to a surface water body, excluding any river, stream or brook, such that in a natural state, the combined surface area is in excess of ten (10) acres; or
2. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the criteria of this definition.

**High Intensity Soil Survey:** A map prepared by a Certified Soil Scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to seasonal high water table or bedrock at that point. Single soil test pits and their evaluation for suitability for subsurface waste water disposal systems shall not be considered to constitute high intensity soil surveys.

**Level of Service:** A description of the operating conditions a driver shall experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, 1985

edition, published by the National Academy of Sciences, Transportation Research Board. There are six levels of service ranging from Level of Service A, with free traffic flow and no delays to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

**Lot:** A parcel of land occupied or capable of being occupied by one building and the accessory buildings or uses customarily incidental to it, including such open spaces as are required by this Ordinance, and having a minimum of fifty (50) frontage upon a public street, right-of-way or private way.

**Manufactured Housing Unit:** A structural unit or units designed for occupancy and constructed in a manufacturing facility and transported by the use of its own chassis, or an independent chassis, to a building site. The term includes any type of building which constructed at a manufacturing facility and transported to a building site where it is used for housing and may be purchased or sold by a dealer in the interim. For purposes of this definition, two (2) types of manufactured housing are included. They are:

1. **Newer Mobile Homes:** Those units constructed after June 15, 1976, commonly called "newer mobile homes," which the manufacturer certifies are constructed in compliance with the United States Department of Housing and Urban Development standards, meaning structures transportable in one or more sections, which in the traveling mode are 14 body feet or more in width and are 750 or more square feet, and which are built on a permanent chassis and designed to be used as dwellings, with or without permanent foundations, when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit;
  - a. This term also includes any structure which meets all the requirements of this subparagraph, except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of the United States Department of Housing and Urban Development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, US Code, Title 42, Section 5401, et seq.; and
2. **Modular Homes:** Those units commonly called "modular homes," which the manufacturer certifies are constructed in compliance with Title 10, chapter 957, section 9001 et seq., and rules adopted under that chapter, meaning structures, transportable in one or more sections, which are not constructed on a permanent chassis and are designed to be used as dwellings on permanent foundations when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained in the unit.

**Mobile Home, Newer:** (see: Manufactured Housing Unit).

**Mobile Home Park:** A plot of land under unified ownership approved by the Town as a subdivision for the placement of three (3) or more manufactured housing units.

**Mobile Home Park Lot:** The area of land on which an individual manufactured housing unit is situated within a mobile home park and which is reserved for use by the occupants of that unit. The Town requires the lots to be indicated on the mobile home park plan.

**Mobile Home Subdivision or Development:** A parcel of land approved by the Planning Board under the Subdivision Ordinance of the Town of Mars Hill for the placement of manufactured housing units on individually owned lots.

**Modular Home:** (see: Manufactured Housing Unit).

**Multifamily Development:** A subdivision which contains three or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

**Normal High-Water Line of Waters:** That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land (by way of illustration, aquatic vegetation includes but is not limited to the following plants and plant groups: Upland grasses, aster, lady slipper, wintergreen, partridge berry, sarsaparilla, pines, cedars, oaks, ashes, alders, elms and maples). In the case of wetlands adjacent to rivers and Great Ponds, the normal high-water line is the upland edge of the wetland, and not the edge of the open water. In places where the shore or bank is of such character that the high water line cannot be easily

determined (rock slides, ledges, rapidly eroding, or slumping banks) the normal high water line shall be estimated from places where it can be determined by the above method.

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

**Permanent Markers.** No person, firm, corporation or other legal entity shall sell or convey any land in an approved subdivision unless at least one permanent marker is set at each lot corner of the lot sold or conveyed. The term "permanent marker" includes the following:

1. A granite monument;
2. A concrete monument;
3. A drill hole in ledge;
4. An iron pin; or
5. A steel bar no less than 1/2" in diameter and 3' in length.

**Person:** Includes a firm, association, organization, partnership, trust, company, or corporation, as well as an individual.

**Planning Board:** The Planning Board of the Town of Mars Hill.

**Preliminary Plan:** The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

**Principal Use:** The primary use other than one which is wholly incidental or accessory to another use on the same premises.

**Professional Engineer:** A professional engineer, registered in the State of Maine.

**Public Improvements.** The furnishing, installing, connecting, and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified by the Planning Board and this ordinance.

**Public Water System:** A water supply system that provides water to at least fifteen service connections or services water to at least 25 individuals daily for at least thirty days a year.

**Recording Plan:** An original of the Final Plan, suitable for recording at the Aroostook County Registry of Deeds and which need show on information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**River:** A free-flowing body of water including its associated floodplain wetlands from that point at which it provides drainage for a watershed of twenty five (25) square miles to its mouth.

**Sight Distance:** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway. Used in this Ordinance as a reference for unobstructed road visibility.

**Sketch Plan:** Conceptual maps, renderings, and supportive data describing the project proposed by the applicant for initial review prior to submitting an application for subdivision approval. May be used by the applicant as the basis for preparing the subdivision plans as part of the application for subdivision approval.

**Stream:** A free-flowing body of water from the outlet of a great pond or the confluence of two (2) perennial streams as depicted on the most recent edition of a United States Geological Survey 7.5 minute series topographic map, or if not available, a 15-minute series topographic map, to the point where the body of water becomes a river, or flows to another waterbody or wetland within a shoreland zone.

**Street:** An existing state, county, or town way; a street dedicated for public use and shown upon a plan duly approved by the Planning Board and recorded in the Aroostook County Registry of Deeds; or a street dedicated for public use and shown on a plan duly recorded in the Aroostook County Registry of Deeds prior to the establishment of the Planning Board and the grant to the Planning Board of its power to approve plans. The term "street" shall not include those ways which have been discontinued or abandoned.

**Street Classification:**

**Arterial Street:** A major thoroughfare which serves as a major traffic way for travel between and through the town. For purposes of this Ordinance the only arterial in Mars Hill is Route 161.

**Collector Street:** A street which serves as a feeder to arterial streets, and collectors of traffic from minor streets.

**Cul-de-sac:** A street with only one outlet and having the other end for the reversal of traffic movement.

**Residential Street:** A street servicing for the most part only residential properties.

**Private Right-of-Way:** A minor residential roadway servicing no more than eight dwelling units, which is not to be dedicated as a public way.

**Structure:** Anything built for the support, shelter, or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes, but not including signs, sidewalks, fences, patios, driveways, and parking lots.

**Subdivision:** For the purposes of this Ordinance the definition of a "Subdivision" is as follows. The division of a tract or parcel of land into 3 or more lots within any 5 year period that begins on or after September 23, 1971, whether accomplished by sale, lease, development, buildings or otherwise. The term "subdivision" shall also include the division of any structure or structures on a tract or parcel of land into 3 or more commercial, industrial, or dwelling units or combination thereof within a 5 year period;

1. In determining whether a tract or parcel of land is divided into 3 or more lots within a 5 year period, the first dividing of the tract or parcel, unless otherwise exempted herein, shall be considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, unless otherwise exempted herein is considered to create a 3rd lot, unless:
  - a. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider's own use as a single family residence or for usable open space land as defined in Title 36, Section 1102, for a period of at least 5 years before the second dividing occurs; or
  - b. The division of the tract or parcel is otherwise exempt under this definition.
2. The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to this Ordinance, do not become subject to this Ordinance by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
3. Any lot, regardless of size, shall be counted as a lot for the purpose of this definition.
4. A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage, or adoption or a gift to the Town of Mars Hill or by the transfer of any interest in land to the owner of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of that transferor in any transfer or gift within this paragraph is to avoid the objectives of this section. If the real estate exempt under this paragraph by gift to a person related to the donor by blood, marriage, or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage, or adoption, then that exempt division creates a lot or lots for the purpose of this definition.
5. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.
6. In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.

7. Nothing in this Ordinance may be construed to prevent the Town of Mars Hill from enacting an ordinance under its home rule authority which expands the definition of subdivision or which otherwise regulates land use activities.
8. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraph 4, or subsequent transfer of that entire lot by the original holder of the security interest or that person's successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this Ordinance.
9. For the purposes of this definition, a new structure or structures includes any structure for which construction begins on or after February 24, 1972. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this Ordinance.
10. For the purposes of this definition, a tract or parcel of land is defined as all contiguous land in the same ownership, provided that lands located on opposite sides of a public or private road shall be considered each a separate tract or parcel of land unless such road was established by the owner of land on both sides thereof.

**Town Engineer:** Any registered professional engineer retained by the town on a consulting basis.

**Tract or Parcel of Land:** All contiguous land in the same ownership, whether or not the tract is separated at any point by: an intermittent or non-navigable stream or a private road established by the abutting land owners.

**Usable Open Space:** That portion of the common open space which due to its slope, drainage characteristics and soil conditions can be used for active recreation, horticulture or agriculture. In order to be considered usable open space, the land must not be poorly drained or very poorly drained, have ledge outcroppings, or areas with slopes exceeding 10%.

#### **Section 4      Exceptions**

This Ordinance does not apply to:

- A. **Previously Approved Subdivisions.** Proposed subdivisions approved by the Planning Board or town officers before September 23, 1971 in accordance with laws then in effect;
- B. **Previous Existing Subdivisions.** Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law; or
- C. **Previously Recorded Subdivisions.** A subdivision, a plan of which had been legally recorded in the Aroostook County Registry of Deeds before September 23, 1971.

#### **Section 5      Procedures for Subdivision Review**

- A. **Introduction.** Every applicant for subdivision approval shall submit a written application to the Code Enforcement Officer. Applications can be obtained at the Town Office, the Code Enforcement officer, or the Chairman of the Planning Board. The Planning Board shall review all requests for subdivision approval. On all matters concerning subdivision review the Planning Board shall maintain a permanent record of all its meetings, proceedings, and correspondences. In order to establish an orderly, equitable, and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Planning Board shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than seven (7) days in advance of the meeting, be distributed to the Planning Board members and any applicant(s) appearing on the agenda, and posted at the town office. Applicants shall request to be placed on the Planning Board's agenda at least ten (10) days in advance of a regularly scheduled meeting by contacting the Code Enforcement Officer. Applicants who attend a meeting but who are not on the Planning Board's agenda may be heard but only after all agenda items have been completed, and then only if a majority of the Planning Board so votes. However, the Planning Board shall take no action on any application not appearing on the Planning Board's written agenda.



- B. Joint Meetings.** If any portion of a subdivision crosses town boundaries, the Planning Board from each town shall meet jointly to discuss the application.
- C. Resubdivision.** The further division of a lot within a subdivision, as defined herein, existing after September 23, 1971, or the change of a lot size therein, or the relocation of any street or lot line within a subdivision shall require the written approval of the Mars Hill Planning Board. Such resubdivision activity shall comply with all provisions of this Ordinance.
- D. Review Procedure.** This Ordinance shall provide for a multi-stage application or review procedure consisting of three (3) stages:
  - a. pre-application and sketch plan,
  - b. preliminary plan, and
  - c. final plan.

## **Section 6 Pre-Application Meeting and Sketch Plan Procedures**

- A. Purpose.** The purpose of the pre-application meeting and on-site inspection is for the applicant to present general information regarding the proposed subdivision to the Planning Board and receive the Planning Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant.
- B. Procedure.**
  - 1. All applications for sketch plan review of a subdivision shall be made through the Code Enforcement Officer and be accompanied by a flat fee of \$25, payable by check to the Town of Mars Hill to cover expenses. A copy of all application materials shall be forwarded to the Chair of the Selectmen for review. Applications can be obtained from the Town Office, the Code Enforcement Officer, or the Chairman of the Planning Board.
  - 2. The sketch plan shall show, in simple sketch form, the proposed layout of streets, lots, buildings, and other features in relation to existing conditions. The sketch plan, which does not have to be engineered and may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. It shall be most helpful to both the subdivider and the Planning Board for site conditions such as steep slopes, wet areas, and vegetative cover to be identified in a general manner. The sketch plan shall be accompanied by:
    - a. A copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision, unless the proposed subdivision is less than ten (10) acres in size.
    - b. A copy of that portion of the Aroostook County Soil Survey covering the subdivision, showing the outline of the proposed subdivision.
  - 3. Within thirty (30) days of the pre-application meeting, the Planning Board shall hold an on-site inspection of the property. The applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners, prior to the on-site inspection. Lot line flags shall be different colors from the centerline flags. The Planning Board reserves the right to postpone the on-site inspection if the Planning Board determines that the on-site inspection is not possible due to surface conditions of the site. Surface conditions shall include but not be limited to, snow cover, flooding rains, and frozen ground.
  - 4. The applicant shall present the sketch plan and make a verbal presentation regarding the proposed subdivision at the first regularly scheduled Planning Board meeting when time is available.
  - 5. Following the applicant's presentation, the Planning Board may ask questions and make suggestions to be incorporated by the applicant into the preliminary application.

6. At the pre-application meeting or when the applicant decides to proceed to the next stage of subdivision review, the Planning Board shall inform the applicant in writing of the required contour interval on the preliminary plan. Contour lines shall be drawn at 10' intervals, unless indicated otherwise by the Planning Board.
- C. **Rights Not Vested.** The pre-application meeting, the submittal for review of the sketch plan, or the on-site inspection shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, MRSA, §302.
- D. **Establishment of File.** Following the pre-application meeting, the Planning Board and Code Enforcement Officer shall establish a file for the proposed subdivision. All correspondence and submissions regarding the pre-application meeting and application shall be maintained in the file.

## **Section 7 Preliminary Plan Procedure and Requirements**

### **A. Preliminary Plan Procedure.**

1. Within six (6) months after the pre-application sketch plan meeting by the Planning Board, the subdivider shall submit an application for approval of a preliminary plan at least ten (10) days prior to a scheduled meeting of the Planning Board. Applications shall be submitted to the Code Enforcement Officer for review for completeness and passed on to the Planning Board for final determination of completeness. Failure to do so shall require resubmission of the sketch plan to the Planning Board. A copy of all application materials shall also be forwarded to the Chair of the Selectmen for review. The preliminary plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Planning Board.
2. Applications for preliminary plan approval shall be accompanied by an application fee of \$25 per lot or unit, payable by check to the Town of Mars Hill.
3. The Planning Board may require that an expert consultant(s) be hired to assist in its review of an application. The applicant shall pay a reasonable fee necessary for such services. The Planning Board shall provide the applicant with notice of its intent to require such a fee, the purpose of the fee, and its approximate amount. The applicant shall be given an opportunity to be heard on the purpose and the amount before the Planning Board. After either being heard or waiving the right, the applicant shall pay the fee or appeal payment of the fee to the Board of Appeals. If a public hearing is deemed necessary by the Board, an additional fee of \$25 shall be required to cover the costs of advertising and postal notification.
4. Irrespective of any other provision of this Ordinance or any other ordinance, the Planning Board shall not accept the application as complete if the applicant fails to pay the fee(s) or appeals the fee(s) determination. If the applicant appeals the payment of the fee(s) to the Board of Appeals, the Board shall decide whether the fee(s) is/are reasonable for the purpose found necessary by the Planning Board. The fee(s) shall be placed in an interest bearing escrow account in the Town of Mars Hill's name. The money, including accrued interest, remaining in the account and which has not been spent or appropriated shall be returned to the applicant within thirty (30) days after the Planning Board issues its final decision on the proposal.
5. The applicant, or their duly authorized representative, shall attend the meeting of the Planning Board to present the preliminary plan application.
6. Within thirty (30) days of receiving the preliminary plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Planning Board shall notify the applicant in writing of the specific additional material needed to complete the application.
7. Upon receiving an application for review, whether the application is complete or not, the Planning Board shall:
  - a. issue a dated receipt to the applicant.

- b. determine whether to hold a public hearing on the preliminary plan application.
  - c. Have the Town Clerk notify in writing all owners of abutting property, or those property owners determined by the Planning Board to be impacted by the proposal, that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project.
  - d. Have the Town Clerk notify the Town Clerk and the Chair of the Planning Board of the neighboring town(s) if any portion of the subdivision includes or crosses the town boundary.
8. If the Planning Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining it has received a complete application, and shall publish a notice of the date, time, and place of the hearing in a newspaper of general circulation in the town at least two times, the date of the first publication to be at least seven (7) days prior to the hearing. A copy of the notice shall be mailed to the applicant.
  9. Within thirty (30) days from the public hearing or within sixty (60) days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Planning Board and the applicant, the Planning Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Planning Board shall specify in writing its findings of facts and reasons for any conditions or denial.
  10. When granting approval to a preliminary plan, the Planning Board shall state the conditions of such approval, if any, with respect to:
    - a. The specific changes which the Planning Board shall require in the final plan;
    - b. The character and extent of the required improvements for which waivers may have been requested and which the Planning Board finds may be waived without jeopardy to the public health, safety, and general welfare of Mars Hill; and
    - c. The construction items for which cost estimates and performance guarantees shall be required as prerequisite to the approval of the final plan.
  11. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval to the Planning Board upon fulfillment of the requirements of this Ordinance and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Planning Board may require additional changes as a result of the further study of the subdivision or as a result of new information received.

**B. Preliminary Plan Requirements.**

The preliminary plan application shall consist of the following items.

1. Application Form.
2. Location Map. The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Planning Board to locate the subdivision within the town. The location map shall show:
  - a. Existing subdivisions in the proximity of the proposed subdivision.
  - b. Locations and names of existing and proposed streets.
  - c. Boundaries and designations of shoreland zoning and townwide zoning districts.
  - d. An outline of the proposed subdivision and any remaining portion of the owner's property if the preliminary plan submitted covers only a portion of the owner's entire contiguous holding.
3. The preliminary plan and application shall be submitted to the Code Enforcement Officer in three (3) copies of one or more maps or drawings which may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The preliminary plan shall be drawn to a scale of not more than one hundred feet (100') to the inch. Plans for subdivisions containing more than one

hundred (100) acres to be drawn at a scale of not more than two hundred feet (200') to the inch provided all necessary detail can easily be read. In addition, one copy of the plan(s) reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be submitted to the Code Enforcement Officer and mailed to the Chair of the Selectmen and each Planning Board member no less than seven (7) days prior to the meeting.

4. The application for preliminary plan approval shall include the following information. The Planning Board may require additional information to be submitted, where it finds it necessary in order to determine whether the criteria of Title 30-A MRSA, §4404 are met.
  - a. Proposed name of the subdivision and the name of the town in which it is located, plus the tax map(s) and lot number(s).
  - b. Verification of right, title, or interest in the property.
  - c. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by permanent monuments.
  - d. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
  - e. A copy of any future covenants or deed restrictions intended to cover all or part of the lots in the subdivision.
  - f. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Maine Licensed Site Evaluator or Registered Soil Scientist shall be provided. A map showing the location of all test pits dug on the site, the location of subsurface waste water disposal systems within 100 feet of the property lines on adjacent parcels, and the locations of the proposed subsurface waste water disposal systems shall be submitted.
  - g. Indication of the type of water supply system(s) to be used in the subdivision and the location of drinking water wells within 100 feet of the property lines on adjacent properties. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
  - h. The date the plan was prepared, north point, and graphic map scale.
  - i. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan, and adjoining property owners.
  - j. A high intensity soil survey by a Maine Registered Soil Scientist if requested by the Planning Board.
  - k. Wetland areas shall be identified, regardless of size.
  - l. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height shall be shown on the plan. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted.
  - m. The location of all rivers, streams, and brooks within or adjacent to the proposed subdivision.
  - n. Contour lines at the interval specified by the Planning Board, showing elevations in relation to the Mean Sea Level.
  - o. The shoreland zoning district in which the proposed subdivision is located and location of any shoreland zoning boundaries affecting the subdivision.

- p. The location of existing and proposed culverts and drainage ways on or adjacent to the property to be subdivided.
- q. The location, names, and present widths of existing streets, highways, easements, building lines, parks and other usable open spaces on or adjacent to the subdivision.
- r. The width and location of any streets, public improvements, or usable open space shown within a comprehensive plan, if any, within the subdivision.
- s. The proposed lot lines with approximate dimensions and lot areas.
- t. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
- u. The location of any usable open space to be preserved and a description of proposed ownership, improvement, and management.
- v. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the plan.
- w. A hydrogeologic assessment prepared by a Maine Certified Geologist or Registered Professional Engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and any part of the subdivision is located over a sand and gravel aquifer, as shown on the town's official Zoning Map. The Planning Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality. These cases include extensive areas of shallow to bedrock soils and where the proposal intends to use a shared or common subsurface waste water disposal system.
- x. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, latest edition, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
- y. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within a comprehensive plan.
- z. A list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the town, or quasi-municipal districts. These lists shall include but not be limited to:

Schools, including busing	Recreation facilities	Street maintenance and snow removal
Storm water drainage	Police and fire protection	Wastewater treatment
Solid waste disposal	Water supply	

The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

## **Section 8 Final Plan Procedure and Requirements**

### **A. Final Plan Procedure**

1. Within six (6) months after the approval of the preliminary plan, the subdivider shall submit an application for approval of the final plan to the Code Enforcement Officer at least ten (10) days prior to a scheduled meeting of the Planning Board. Final plan applications shall be submitted to the Code Enforcement Officer. If the application for the final plan is not submitted within six (6) months after preliminary plan approval, the Planning Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Planning Board.

2. If an applicant cannot submit the final plan within six (6) months, due to delays caused by other regulatory bodies, or for other reasons, the applicant may request an extension from the Planning Board. Such a request for an extension to the filing deadline shall be made, in writing, to the Code Enforcement Officer who shall pass the request along to the Planning Board for discussion at their next regularly scheduled meeting prior to the expiration of the filing period. In considering the request for an extension the Planning Board shall make findings of fact that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that town ordinances or regulations which may impact on the proposed development have not been amended.
3. All applications for final plan approval for a subdivision shall be accompanied by an application fee of \$25 per lot or unit payable by check to the Town of Mars Hill. If a public hearing is deemed necessary by the Planning Board, an additional fee of \$25 shall be required to cover the costs of advertising and postal notification.
4. Irrespective of any other provision of this Ordinance or any other ordinance, the Planning Board shall not accept the application as complete if the applicant fails to pay the fee(s) or appeals the fee(s) determination. If the applicant appeals the payment of the fee(s) to the Board of Appeals, the Board shall decide whether the fee(s) is/are reasonable for the purpose found necessary by the Planning Board. The fee(s) shall be placed in an interest bearing escrow account in the Town of Mars Hill's name. The money, including accrued interest, remaining in the account and which has not been spent or appropriated shall be returned to the applicant within thirty (30) days after the Planning Board issues its final decision on the proposal.
5. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:
  - a. Maine Department of Environmental Protection, under the Site Location of Development Act, Natural Resources Protection Act, or if a Wastewater Discharge License is needed;
  - b. Maine Department of Human Services, if the subdivider proposes to provide a public water system;
  - c. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized; and
  - d. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
6. Within thirty (30) days of the receipt of the final plan application, the Planning Board shall determine whether the final plan application is complete and notify the applicant in writing of its determination. If the application is not complete, the Planning Board through the Code Enforcement Officer shall notify the applicant of the specific additional material needed to complete the application.
7. Upon receiving an application for review, whether the application is complete or not, the Planning Board shall issue a dated receipt to the applicant. The Planning Board shall determine whether to hold a public hearing on the final plan application.
8. The applicant, or their duly authorized representative, shall attend the meeting of the Planning Board or public hearing to discuss the final plan.
9. If the Planning Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days of determining it has received a complete application, and shall publish a notice of the date, time, and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven (7) days before the hearing. In addition, the notice of the hearing shall be posted in at least three (3) prominent places within the town at least seven (7) days prior to the hearing.
10. The Planning Board shall notify the Chair of the Selectmen, Road Commissioner, School Superintendent, State Police, County Sheriff's Department, and Fire Chief of the proposed subdivision, the number of units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial, or industrial buildings. The Planning Board shall request that these

officials comment upon the adequacy of existing capital facilities to service the proposed subdivision.

## **B. Final Plan Requirements**

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet (100') to the inch. Plans for subdivisions containing more than one hundred (100) acres may be drawn at a scale of not more than two hundred feet (200') to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Planning Board. Two recording plans on Mylar transparencies, one to be recorded at the Aroostook County Registry of Deeds and the other to be filed at the town office, and three paper copies of the plan shall be submitted. In addition, one copy of the final plan, reduced to a size of 8 1/2 by 11 inches or 11 by 17 inches, and all accompanying information shall be mailed to the Chair of the Selectmen and to each Planning Board member no less than seven (7) days prior to the meeting by the Town Clerk.

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

1. Proposed name of the subdivision and the name of the town in which it is located, plus the Assessor's Map and Lot numbers.
2. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, permanent markers, watercourses and waterbodies, and other essential existing physical features. The location of any trees larger than 24 inches in diameter at breast height. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted.
3. Indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by subsurface waste water disposal systems, test pit analyses, prepared by a Maine Licensed Site Evaluator or Certified Soil Scientist shall be provided. A map showing the location of all test pits dug on the site, the location of subsurface waste water disposal systems within 100 feet of the property lines on adjacent properties, and the locations of the proposed subsurface waste water disposal systems in the subdivision shall be submitted.
4. Indication of the type of water supply system(s) to be used in the subdivision and the location of drinking water wells within 100 feet of the property lines on adjacent properties. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
5. The date the plan was prepared, north point, graphic map scale.
6. The names and addresses of the record owner, subdivider, and individual or company who prepared the plan.
7. A high intensity soil survey by a Maine Registered Soil Scientist.
8. Wetland areas shall be identified, regardless of size.
9. The location of any shoreland zoning boundaries affecting the subdivision, if applicable.
10. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
11. The location and size of existing and proposed culverts and drainage ways on or adjacent to the property to be subdivided.
12. The location, names, widths, and geometrics of existing and proposed streets, assess points, highways, easements, buildings, parks, and other usable open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing, and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to

reference points previously established. The location, bearing, and length of street lines, lot lines, and parcel boundary lines shall be certified by a registered land surveyor.

13. An erosion and sedimentation control plan prepared in accordance with the *Environmental Quality Handbook*, latest edition, published by the Maine Soil and Water Conservation Commission or the *Best Management Practices*, latest edition, published by the Maine Department of Environmental Protection. The Planning Board may waive submission of the erosion and sedimentation control plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision shall not involve road construction, and that no driveway or house construction shall occur on sites with slopes steeper than 10%.
14. A storm water management plan, prepared by a registered professional engineer in accordance with *Urban Hydrology for Small Watersheds*, T.R. 55, latest edition, published by the U.S. Soil Conservation Service. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Planning Board may waive submission of the storm water management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision shall not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 10% of the area of the subdivision.
15. The width and location of any public improvements or usable open space shown within the Comprehensive Plan, if applicable, within the subdivision.
16. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the town of all public ways and usable open spaces shown on the plan, and copies of agreements or other documents showing the manner in which usable open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or usable open spaces or other land is to be offered to the town, written evidence that the town officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
17. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the town's Flood Insurance Rate Map, shall be delineated on the plan.
18. A list of construction items, with cost estimates, that shall be completed by the developer prior to the sale of lots, and evidence that the subdivider has financial commitments or resources to cover these costs.
19. A performance bond may be required to secure completion of all public improvements required by the Planning Board, and written evidence that the town officers are satisfied with the legal sufficiency of the bond.
20. A list of construction and maintenance items, with both capital and annual operating cost estimates, that must be financed by the town, or quasi-municipal districts. These lists shall include but not be limited to:

Schools, including busing	Recreation facilities	Street maintenance and snow removal
Storm water drainage	Police and fire protection	Wastewater treatment
Solid waste disposal	Water supply	

The developer shall provide an estimate of the net increase in taxable assessed valuation at the completion of the construction of the subdivision.

21. Suitable space to record on the approved plan, the date, and conditions of approval, if any. This space shall be similar to the following example:

Town of Mars Hill

Approved by the Town of Mars Hill Planning Board



Signed \_\_\_\_\_ Chair of the Planning Board  
 \_\_\_\_\_ (space for all Planning Board  
 \_\_\_\_\_ members to sign)  
 \_\_\_\_\_  
 Date \_\_\_\_\_  
 \_\_\_\_\_  
 Conditions \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**C. Final Approval and Filing**

1. A plan may be reviewed by the Planning Board, however, no plan shall be approved by the Planning Board as long as the subdivider is in violation of provisions of federal, state, or local laws and regulations and a previously approved plan within the town.
2. Before the Planning Board grants approval of the final plan, the subdivider shall meet the performance guarantee requirements of Section 11 (H).
3. Within thirty (30) days from the public hearing or within sixty (60) days of having determined a complete application, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Planning Board and the applicant, the Planning Board shall make findings of fact, and conclusions relative to the review criteria for approval contained in Title 30-A MRSA, §4404 (Statute) and Section 9 of this Ordinance. If the Planning Board finds that all the criteria of the Statute and the standards of this Ordinance have been met, they shall approve the final plan. If the Planning Board finds that any of the criteria of the Statute or the standards of this Ordinance have not been met, the Planning Board shall either deny the application, or approve the application with conditions to ensure all of the standards shall be met by the subdivision. The reasons for any conditions shall be stated in the records of the Planning Board.
4. Upon findings of fact and determination that all standards in Title 30-A MRSA, §4404, and this Ordinance have been met, and upon voting to approve the subdivision, the Planning Board shall sign the final plan(s) (recording plan(s)). The Planning Board shall specify in writing its findings of facts and reasons for any conditions or denial. One copy of the signed recording plan on Mylar transparency shall be retained by the town office as part of the permanent records, one copy of the signed recording plan on Mylar transparency shall be forwarded to the Aroostook County Registry of Deeds, and one paper copy of the Mylar transparency (recording plan) shall be retained by the Chair of the Planning Board. Any subdivision not recorded in the Aroostook County Registry of Deeds within ninety (90) days of the date upon which the plan is approved and signed by the Planning Board shall become null and void.
5. At the time the Planning Board grants final plan approval, it may permit the plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to ensure the orderly development of the plan. If any town or quasi-municipal department head notified of the proposed subdivision informs the Planning Board that their department or district does not have adequate capital facilities to service the subdivision, the Planning Board shall require the plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to allow the orderly planning, financing, and provision of public services to the subdivision. If the Superintendent of Schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which shall serve the subdivision, considering previously approved but not built subdivisions, the Planning Board shall require the plan to be divided into sections to prevent classroom overcrowding. If the expansion, addition or purchase of the needed facilities is included in the town's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.
6. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a waiver from any applicable subdivision standard, that fact must be expressly delineated on the face of the final recording plans.

- a. In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded with the Town Clerk and the Aroostook County Registry of Deeds. This certificate must:
    1. Indicate the name of the property owner;
    2. Identify the property by reference to the last recorded deed in its chain of title; and
    3. Indicate the fact that a waiver, including any conditions on the waiver, has been granted and the date of granting.
  - b. The waiver is not valid until it is recorded as provided in this paragraph. Recording of the plan must occur within ninety (90) days of the final subdivision approval or approval under Title 38, where applicable, whichever date is later, or the waiver is null and void.
7. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Planning Board approves any modifications. The Planning Board shall make findings that the revised plan meets the criteria of Title 30-A MRSA, §4404, and the standards of this Ordinance. In the event that a plan is recorded without complying with this requirement, the Town shall provide to the Aroostook County Registry of Deeds an affidavit to be recorded over or attached to the plan. The Planning Board may institute proceedings to have the plan stricken from the records of the Aroostook County Registry of Deeds.
  8. The approval by the Planning Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the town of any street, easement, or other usable open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the town, approval of the plan shall not constitute an acceptance by the town of such areas. The acceptance of dedicated lands shall be made only by the town's legislative body at Town Meeting. The Planning Board shall require the plan to contain appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the town covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
  9. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five (5) years of the date of approval and signing of the plan shall render the plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Planning Board shall have a notice placed in the Aroostook County Registry of Deeds to that effect.

## **Section 9      Review Criteria**

- A. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with this Ordinance, or where there are special circumstances of a particular plan, it may waive any of the submission requirements and/or non-statutory performance standards provided that such waiver shall not have the effect of nullifying the purpose of this Ordinance, the comprehensive plan, the Shoreland Zoning Ordinance, or any other ordinance.
- B. In granting any waiver, the Planning Board shall require such conditions as shall, in its judgment, secure substantially the objectives of the requirements so waived.
- C. When reviewing an application for approval, the Planning Board shall consider the following criteria and, before granting approval, must determine that:
  1. Pollution. The proposed subdivision shall not result in undue water or air pollution. In making this determination, it shall at least consider:
    - a. The elevation of land above sea level and its relation to the flood plains,
    - b. The nature of the soils and subsoils and their ability to adequately support waste disposal,
    - c. The slope of the land and its effect on effluents,
    - d. The availability of streams for disposal of effluents, and

- e. The applicable of state and local health and water resource rules and regulations;
2. Sufficient Water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
  3. Municipal Water Supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
  4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition results;
  5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed;
  6. Sewage Disposal. The proposed subdivision will provide for adequate sewage waste disposal and not cause an unreasonable burden on Town services, if they are to be utilized;
  7. Municipal Solid Waste Disposal. The proposed subdivision will not cause an unreasonable burden on the ability of the Town to dispose of solid waste, if Town services are to be utilized;
  8. Aesthetic, Cultural, and Natural Values. Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the Town, rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
  9. Conformity with Local Ordinances and Plans. The proposed subdivision is in conformance with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan, or land use plan, if any. In making this determination, the Planning Board may interpret these ordinances and plans;
  10. Financial and Technical Capacity. The subdivider has adequate financial and technical capacity to meet all criteria contained within these regulations;
  11. Surface Waters and Outstanding River Segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond, or river as defined in Title 38, chapter 3, subchapter I, article 2-B, Sections 435-449, will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
  12. Ground Water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;
  13. Flood Areas. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, whether the subdivision is in a flood prone area. If the subdivision, or any part of it, is in such an area the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan shall include a condition of plat approval requiring that principal structures on lots in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
  14. Freshwater Wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
  15. River, Stream, or Brook. Any river, stream, or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream, or brook" has the same meaning as in Title 38, Section 480-B, subsection 9;
  16. Storm Water. The proposed subdivision will provide for adequate storm water management; and,

17. Spaghetti Lots Prohibited. If any lots within the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in Title 38, Section 480-B, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1.

## **Section 10 Design Guidelines**

This section is intended to provide an example of design guidelines, which if followed shall result in meeting the appropriate criteria in Section 9, above. Compliance with these design guidelines shall be considered evidence of meeting the those criteria. Proposed subdivisions not in compliance with these design guidelines may be considered, but the applicant shall provide clear and convincing evidence that the proposed subdivision shall meet the review criteria contained in Section 9, above. In all instances the burden of proof shall be upon the applicant to present adequate information to indicate all review criteria for approval have been or will be met. The Mars Hill Planning Board shall consider the following criteria before granting approval and shall determine that the proposed subdivision shall or shall not meet each of the following criteria.

### **A. Pollution.**

1. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
2. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge. When the subdivision is within the watershed of a great pond, the storm water shall be treated in order to remove excess nutrients.
3. The proposed subdivision shall not produce any undue air pollution. The site area shall be regularly sprayed to control dust from construction activity. Dust control shall be approved by the Code Enforcement Officer prior to being applied and shall be applied at the time of construction with either calcium chloride, or an approved alternative, by being mixed with the gravel or sprayed on at completion of the driveway.

### **B. Water Supply.**

1. Public Water Supply.
  - a. Any subdivision within the area designated in the comprehensive plan for future public water supply service shall make provisions for connection to the public system. When public water supply service shall not be available at the time of construction of the subdivision, a "capped system" shall be installed within the subdivision to allow future connection when service becomes available without excavation within the right-of-way of any street within the subdivision.
  - b. When a subdivision is to be served by a public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the subdivider. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water company or district and the Fire Chief.
2. Individual Water Supply.
  - a. When a proposed subdivision is not within the area designated for public water supply service in the comprehensive plan, water supply shall be from individual wells or a private community water system.
  - b. Due to the increased chance of contamination from surface water, dug wells shall be prohibited. The subdivider shall prohibit dug wells by deed restrictions and a note on the plan.
  - c. Wells shall not be constructed within 100 feet of the traveled way of any street, if located downhill from the street, or within 50 feet of the traveled way of any street, if located uphill of the street. This restriction shall be included as a note on the plan and deed restriction to the effected lots.

- d. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
- e. Lot design shall permit placement of wells, subsurface wastewater disposal areas, and reserve sites for subsurface water disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules.

3. Centralized Water System.

If a central water supply system is provided by the subdivider, the location and protection of the source, the design, construction, quantity, and operation of the system and shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231). The Planning Board shall be notified of the location of a proposed community water supply for reference into the town's well head protection program, if any.

4. Fire Protection System.

- a. A minimum storage capacity of 10,000 gallons shall be provided by the subdivider for a subdivision not served by a public water supply. Additional storage of 2,000 gallons per lot or principal building shall be provided. The Planning Board may require additional storage capacity based upon a recommendation from the Fire Chief who shall consult the National Fire Protection Association manual and the Life Safety Code. Storage facilities may be ponds with dry hydrants, underground storage reservoirs, or other methods acceptable to the Fire Chief. Where ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest water level less an equivalent of four (4) feet of ice.
- b. Hydrants or other provisions for drafting water shall be provided to the specifications of the Fire Department. Minimum pipe size connecting dry hydrants to ponds or storage vaults shall be six (6) inches.
- c. Where the dry hydrant or other water source is not within the right-of-way of a proposed or existing street, an easement to the town for access to and maintenance shall be provided. A suitable access way to the hydrant or other water source shall be constructed.
- d. The Planning Board may waive the requirement for water storage only upon submittal of evidence that the soil types in the subdivision shall not permit their construction or installation and the Fire Chief has indicated in writing that alternate methods of fire protection are available.

5. Water Quality.

Water supplies shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If existing water quality contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the final plan to be recorded by the town and in the Aroostook County Registry of Deeds.

**C. Impact on Existing Water Supplies**

A proposed subdivision shall not generate a demand on the source, treatment facilities, or distribution system of the servicing water company or district beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The subdivider shall be responsible for paying the costs of system improvements necessary to district's or company's system improvement plan as necessary to alleviate existing deficiencies.

**D. Traffic Conditions**

1. Traffic Conditions

The proposed subdivision shall not cause unreasonable highway or public road congestion or unsafe

conditions with respect to use of the highways, public roads, or pedestrian walkways existing or proposed. Vehicular access to the subdivision shall be on roads which have adequate capacity to accommodate the additional traffic generated by the development. The Planning Board may require mitigation when the proposed development is anticipated to result in a decline in service, below Level of Service "C", of nearby roadways or intersections. Levels of Service are defined by the Highway Capacity Manual, published by the Research Board, National Research Council, Washington DC, latest edition. If an existing intersection is functioning at a Level of Service of "D" or lower prior to the development, the project shall not reduce the current level of service. A copy of the application shall be provided to the appropriate town authority(s), and to the Maine Department of Transportation if on a state maintained road, for timely review and comment. The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:

- a. A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or
- b. The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one year of project approval.

2. Pedestrian Circulation.

The subdivision shall provide for a system for pedestrian circulation within the development. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops, existing sidewalks in the neighborhood, and shall be in conformance with the standards of this Ordinance.

3. Parking and Vehicle Circulation.

The proposed subdivision shall provide for adequate parking and vehicle circulation and shall be in conformance with the standards of this Ordinance. A copy of the proposed network shall be provided to the appropriate town authority(s) for timely review and comment. The layout of the site shall provide for the safe movement of passenger, service, and emergency vehicles throughout the site.

- a. Projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for vehicles expected to use the facility.
- b. Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate language.
- c. The layout and design of dedicated parking areas provided on-site or within a reasonable walking distance from the site, shall provide for safe and convenient circulation of vehicles throughout the development.
- d. All streets and accessways shall be designed to follow the topographic and natural features of the site. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, delivery, and collection services.
- e. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional islands, frontage roads, sidewalks, bicycleways and traffic controls within existing public streets.
- f. Off street parking shall be provided. Each single or multi-family dwelling unit shall provide two off-street parking spaces.

4. Access Control.

- a. Where a lot has frontage on two or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is less average daily traffic flow, congestion, and hazards to traffic and pedestrians.

- b. Accessways to non-residential subdivisions or to multifamily developments shall be designed to avoid queuing of entering vehicles on any street. Left lane storage capacity shall be provided to meet anticipated demand. A warrant analysis to determine the need for a left-turn storage lane shall be done, if necessary.
- c. When the access to a subdivision is a street, the Street Design and Construction Standards below shall be met. Where there is a conflict between standards, the stricter or more stringent shall apply.

1. General

Access design shall be based on the estimated volume using the access classification defined below. Traffic volume estimates shall be as defined in the Trip Generation Manual, 1987 edition, published by the Institute of Transportation Engineers.

- a. Low Volume Access: An access with 0-50 vehicle trips per day or less.
- b. Medium Volume Access: Any access with 50 or more vehicle trips per day but less than 200 peak hour vehicle trips per day.

2. Sight Distances

Accesses shall be designed in profile and grading and located to provide the required sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of 10 feet behind the curbline or edge of shoulder, with the height of the eye 3-1/2 feet, to the top of an object 4-1/4 feet above the pavement.

a. Two Lane Roads

A minimum sight distance of ten (10) feet for each mile per hour of posted speed limit shall be maintained or provided.

3. Vertical Alignment

Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage. Accesses shall slope upward or downward from the gutter line on a straight slope of 3 percent or less for at least 75 feet and no more than 2% for the first 25 feet. The maximum grade over the entire length shall not exceed eight (8) percent.

4. Low Volume Accesses

a. Skew Angle.

Low volume accesses shall be two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

b. Curb Radius.

The curb radius shall be between 25 feet and 30 feet, with a preferred radius of 25 feet.

c. Access Width.

The width of the access shall be between 20 feet and 24 feet, with a preferred width of 20 feet.

Item	Desired Value(FT)	Minimum Value(FT)	Maximum Value(FT)
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Radius	25	25	30
Width	20	20	24

5. Medium Volume Accesses

a. Skew Angle

Medium Volume Accesses shall be either one-way or two-way operation and shall intersect the road at an angle as nearly 90 degrees as site conditions permit, but in no case less than 60 degrees.

b. Curb Radius

Curb radii will vary depending if the access has one-way or two-way operation. On a two-way access the curb radii shall be between 25 feet and 40 feet, with a preferred radius of 30 feet. On one-way accesses, the curb radii shall be 30 feet for right turns into and out of the site, with a 5 foot radius on the opposite curb.

c. Width

On a two-way access the width shall be between 24 and 26 feet, with a preferred width of 26 feet, however where truck traffic is anticipated, the width may be no more than 30 feet. On a one-way access the width shall be between 16 feet and 20, with a preferred width of 16 feet.

d. Curb-Cut Width

On a two-way access the curb-cut width shall be between 74 feet and 110 feet with a preferred width of 86 feet. On a one-way access the curb-cut width shall be between 46 feet and 70 feet with a preferred width of 51 feet.

<u>Item</u>	<u>Desired Value(FT)</u>	<u>Minimum Value(FT)</u>	<u>Maximum Value(FT)</u>
<b>One Way</b>			
R1 (radius)	30	30	40
R2 (radius)	5	5	10
W (drive width)	20	20	24
R2 for turns into the opposite lane only			
<b>Two Way</b>			
Radius	30	25	40
Width	26	24	30

6. Access Location and Spacing

a. Minimum Corner Clearance

Corner clearance shall be measured from the point of tangency (PT) for the corner to the point of tangency for the access. In general the maximum corner clearance should be provided as practical based on site constraints. Minimum corner clearances are listed below based upon access or minor street volume and intersection type.

**Minimum Standards for Corner Clearance**

Access Type	Minimum Corner Clearance (feet)	
	Intersection Signalized	Intersection Unsignalized
<hr/>		



High Volume access may be required to increase corner clearance if recommended in a traffic impact study.

If based on the above criteria, full access to the site cannot be provided on either the major or minor streets, the site shall be restricted to partial access. Alternately, construction of a shared access drive with an adjacent parcel is recommended.

b. Access Spacing

Driveways shall be separated from adjacent driveways in order to allow major through routes to effectively serve their primary function of conducting through traffic. This distance shall be measured from the access point of tangency to the access point of tangency for spacing between accesses and from the access point of tangency to a projection of the property line at the edge of the roadway for access spacing to the property line. The minimum distance between driveways shall be 125 feet in all districts except the R-F district where the distance shall be 230 feet.

7. Number of Accesses

The maximum number of accesses onto a single street is controlled by the available site frontage and the table above. In addition, the following criteria shall limit the number of accesses independent of frontage length.

- a. No low volume traffic generator shall have more than one two-way access onto a single roadway.
- b. No medium volume traffic generator shall have more than two two-way accesses or three accesses in total onto a single roadway.

8. Access to frontage road/service road/minor road

A. Direct Access to Route 1 Prohibited

Where a proposed commercial or residential subdivision is located on property with frontage on route 1, direct access to any individual lot, or a single place of business, shall be prohibited unless the Planning Board determines that the physical conditions particular to the parcel justify the granting of a waiver to this requirement. A waiver shall only be granted if there will be no further subdivision of the parcel and one of the following conditions is met:

1. There is too little frontage to reasonably allow creation of a new way; or
2. The shape or physical condition of the parcel does not permit access to or creation of a street other than the arterial.

B. Permitted Access

Access to the development may include one of the following:

1. **A common frontage driveway** running parallel to Route 1 provided that the frontage road shall be located 50 feet from the edge of the Route 1 right-of-way.
2. **A common driveway/parking area**, which may intersect the arterial, and which serves the individual lots or businesses or a common parking lot adjacent to the individual lots or businesses.
3. **Minor Road(s)**. One or more minor roads, to be constructed by the developer according to the standards of this ordinance, which shall serve the development.

9. Construction Materials/Paving

- a. All accesses entering a curbed street shall be curbed with materials matching the existing adjacent street curbing.
- b. All accesses shall be paved with bituminous concrete pavement within the street right-of-way.

5. Street Design and Construction Standards.

a. General Requirements.

1. The Planning Board shall not approve any subdivision plan unless proposed streets are designed in accordance with the specifications contained herein. Approval of the final plan by the Planning Board shall not be deemed to constitute or be evidence of acceptance by the Town of Mars Hill of any street or easement.

2. Subdividers shall submit to the Planning Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed streets and existing streets within 300 feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty feet (1"=50'). The vertical scale of the profile shall be one inch equals no more than five feet (1"=5'). The plans shall include the following information:
  - a. Date, scale, and North point, indicating, magnetic or true.
  - b. Intersections of the proposed street with existing streets.
  - c. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.
  - d. Kind, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways.
  - e. Complete curve data shall be indicated for all horizontal and vertical curves.
  - f. Turning radii at all intersections.
  - g. Centerline gradients.
  - h. Size, type, and locations of all existing and proposed overhead and underground utilities, to include but not be limited to electricity, telephone, lighting, and cable television.
3. Upon receipt of plans for a proposed public street the Planning Board shall forward one copy to each Selectmen and the Road Commissioner for review and comment. Plans for streets which are not proposed to be accepted by the town shall be sent to the Road Commissioner for review and comment.
4. Where the subdivider proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Road Commissioner or the Maine Department of Transportation, as appropriate.
5. Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan.

*"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town of Mars Hill, until they meet the Mars Hill street design and construction standards."*
6. Where topographic and other site conditions allow, provision shall be made for street connections to adjoining lots of similar existing or potential use within areas of the town designated as growth areas in the comprehensive plan; or in non- residential subdivisions when such access shall:
  - a. Facilitate fire protection services as approved by the Fire Chief; or
  - b. Enable the public to travel between two existing or potential uses, generally open to the public, without need to travel upon a public street.
7. Street Names, Signs and Lighting.

Streets which join and 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 town, and shall be subject to the approval of the Planning Board. No street name shall be the common given name of a person. The developer shall reimburse the town for the costs of installing street name, traffic safety and control signs.
8. Site Conditions.
  - a. During construction, the subdivision shall be maintained and left each day in a safe and sanitary manner. The roads shall be regularly sprayed to control dust from construction activity.

- b. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded.

b. Street Design Standards.

1. These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the street, and shall be met by all streets within a subdivision, unless the applicant can provide clear and convincing evidence that an alternate design will meet good engineering practice.
2. Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed with the town.
3. Where a subdivision borders an existing narrow street (not meeting the width requirements of the standards for streets contained herein), or when the subdivision indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked "Reserved for Road Realignment (Widening) Purposes." When such widening or realignment is included in the town's Capital Investment Plan, the reserve area shall not be included in any lot, but shall be reserved to be deeded to the town or state.
4. The following design and construction standards shall apply according to street classification:

**Minimum Mars Hill Street Design and Construction Standards**

	Arterial	Collector	Residential	Private
a. minimum width of ROW	80'	50'	50'	50'
b. minimum paved width	48'	24'	20'	18'
c. minimum shoulder width (each side)	4'	4'	3'	3'
d. curbing (if required)	vertical	vertical	vertical	none
e. curb reveal	7"	7"	7"	-
f. minimum roadway grade	1.0%	0.5%	0.5%	0.5%
g. maximum roadway grade	5.0%	6.0%	8.0%	8.0%
h. maximum shoulder grade	5.0%	5.0%	6.0%	6.0%
i. drainage ditch angle ratio: (maximum)				
shoulder to ditch bottom	3:1	3:1	3:1	3:1
ditch bottom to ROW	2:1	2:1	2:1	2:1
j. minimum distance ditch bottom to sub-base bottom	12"	12"	12"	12"
k. maximum grade intersections	3% within 75 feet of the intersection			
l. minimum angle intersections (degrees)	90	75	75	75
m. minimum center line radii on curves	800'	280'	280'	175'
n. minimum tangent length between reverse curves	300'	200'	100'	100'
o. minimum sidewalk; width	5'	5'	5'	-
bituminous surface	2"	2"	2"	2"
crushed base course	2"	2"	2"	2"
gravel sub-base course	12"	12"	12"	12"
Portland cement concrete				
reinforced with 6" square #10-wire mesh	4"	4"	4"	4"
sand base if cement used	6"	6"	6"	6"
p. minimum road base: (after compaction)				
aggregate subbase (max. size stone 6")	36"	24"	24"	24"
crushed aggregate base (if necessary),	4"	3"	3"	3"
q. hot bituminous pavement:				

	surface course (may be chip seal)	1.50"	1.00"	0.75"	0.75"
	base course	1.75"	1.75"	1.75"	1.75"
r.	minimum road crown	0.25":1'	0.25":1'	0.25":1'	0.50":1'
s.	property line radii (intersections)	20'	10'	10'	10'
t.	curb radii intersections:				
	90 degrees	30'	25'	25'	25'
	75-90 degrees	--	30'	30'	30'
u.	minimum distances between intersections:				
	same side	400'	400'	300'	300'
	opposite sides	300'	250'	200'	200'
v.	design speed - (MPH)	45	30	25	25

5. The centerline of the roadway shall be maintained as the centerline of the right-of-way.
6. Dead End Streets.

In addition to the design standards above, dead-end streets shall be constructed to provide a cul-de-sac turn-around with the following requirements for radii:

Property line: 60 ft.;  
 Outer edge of pavement: 50 ft.; and  
 Inner edge of pavement: 30 ft.

Where the cul-de-sac is in a wooded area prior to development, a stand of trees shall be maintained within the center of the cul-de-sac. The Planning Board may require the reservation of a twenty (20) foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Planning Board may also require the reservation of a fifty (50) foot easement in line with the street to provide continuation of the road where future subdivision is possible.

7. Grades, Intersections, and Sight Distances.
  - a. Grades of all streets shall conform in general to the terrain, so that cut and fill are minimized while maintaining the grade standards above.
  - b. All changes in grade shall be connected by vertical curves in order to provide the following minimum stopping sight distances based on the street design speed.

<u>Design Speed (mph)</u>	20	25	30	35
Stopping Sight Distance (ft)	125	150	200	250

- c. Stopping sight distance shall be calculated with a height of eye at 3-1/2 feet and the height of object at 1/2 feet.
  - e. Cross (four-cornered) street intersections shall be avoided insofar as possible or at other important traffic intersections. A minimum distance of 125' feet shall be maintained between centerlines of minor streets and 200' feet between collectors or a collector and minor street.
8. Sidewalks.

Sidewalks within all new subdivisions shall be installed at the discretion of the Planning Board. Where sidewalks exist adjacent to a proposed subdivision, sidewalks shall be installed connecting to existing sidewalks. Where installed, sidewalks shall meet these minimum requirements.

a. Location.

Sidewalks within a right-of-way shall be located a minimum of five (5) feet from the curb facing or edge of shoulder if the street is not curbed.

b. Bituminous Sidewalks.

1. The "subbase" aggregate course shall be no less than twelve (12) inches thick after compaction.
2. The hot bituminous pavement surface course shall be MDOT plant Mix Grade D constructed in two lifts, each lift no less than one inch after compaction.

c. Portland Cement Concrete Sidewalks.

1. The subbase aggregate shall be no less than twelve (12) inches after compaction. A six (6) inch sand base, after compaction, may be substituted for the twelve (12) inches subbase aggregate.
2. The Portland Cement concrete shall be reinforced with six (6) inch square, number 10 wire mesh and shall be no less than four (4) inches thick. Alternate reinforcements may be implemented if in the opinion of a professional engineer, the alternative provides reinforcement of equal or better strength.

9. Curbs.

Curbs shall be installed within all subdivisions, at the discretion of the Planning Board. Granite curbing shall be installed on a thoroughly compacted gravel base of six (6) inches minimum thickness. Bituminous curbing shall be installed on the base course of the pavement. The specified traveled way width above shall be measured between the curbs.

c. Street Construction Standards.

1. The minimum thickness of material shall meet the specifications in the table below, after compaction.

<u>Street Materials</u>	<u>Minimum Requirements</u>		
	<u>Collector</u>	<u>Residential</u>	<u>Private</u>
Aggregate Sub-base Course (Max. sized stone 4")			
Without base gravel	24"	24"	24"
With base gravel	20"	18"	18"
Crushed Aggregate Base Course	3"	3"	3"
Hot Bituminous Pavement			
Total Thickness	2.75"	2.50"	N/A
Surface Course*	1.00"	0.75"	N/A
* surface course may be chip seal			
Base Course	1.75"	1.75"	N/A
Surface Gravel	N/A	N/A	3"

2. Preparation.

- a. Before any clearing has started on the right-of-way, the center line and side lines of the new road shall be staked or flagged at fifty (50) foot intervals.
- b. Before grading is started, the entire area within the right-of-way necessary for traveled

way, shoulders, sidewalks, drainageways, and utilities shall be cleared of all stumps, roots, brush, and any man-made material. All shallow ledge, large boulders, and tree stumps shall be removed from the cleared area.

- c. All organic materials or other deleterious material shall be removed to a depth of two (2) feet below the subgrade of the roadway. Rocks and boulders shall also be removed to a depth of two (2) feet below the subgrade of the roadway. On soils which have been identified as not suitable for roadways, either the subsoil shall be removed from the street site to a depth of two (2) feet below the subgrade and replaced with material meeting the specifications for gravel aggregate sub-base below, or a MDOT approved stabilization geotextile may be used.
- d. Except in a ledge cut, side slopes shall be no steeper than a slope of three (3) feet horizontal to one foot vertical, and shall be graded, loamed, limed, fertilized, and seeded according the specifications of the erosion and sedimentation control plan. Where a cut results in exposed ledge a side slope no steeper than four (4) feet vertical to one foot horizontal is permitted.
- e. All underground utilities shall be installed prior to paving to avoid cuts in the pavement.

3. Bases and Pavement.

a. Bases/Sub-base.

- 1. The aggregate subbase course shall be sand or gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances. The gradation of the part that passes a three (3) inch square mesh sieve shall meet the following grading requirements:

**Percentage by Weight Passing**

Sieve Designation	Square Mesh Sieves
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the subbase shall contain no particles of rock exceeding four (4) inches in diameter at any point.

- 2. If the aggregate subbase course is found to be not fine-gradeable because of larger stones, then a minimum of three (3) inches of aggregate base course shall be placed on top of the subbase course. The aggregate base course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

**Percentage by Weight Passing**

Sieve Designation	Square Mesh Sieves
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5%

Aggregate for the base shall contain no particles of rock exceeding two (2) inches in diameter at any point.

b. Pavement Joints.



Where pavement joins an existing pavement, the existing pavement shall be cut along a smooth line and form a neat, even, vertical joint.

c. Pavements.

1. Minimum standards for the base layer of pavement shall be the MDOT specifications for plant mix grade B with an aggregate size no more than 1 inch maximum and a liquid asphalt content between 4.8% and 6.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and November 15, provided the air temperature in the shade at the paving location is 35°F or higher and the surface to paved is not frozen or unreasonably wet.
2. Minimum standards for the surface layer of pavement shall be the MDOT specifications for plant mix grade C or D with an aggregate size no more than 3/4 inch maximum and a liquid asphalt content between 5.8% and 7.0% by weight depending on aggregate characteristics. The pavement may be placed between April 15 and October 15, provided the air temperature in the shade at the paving location is 50°F or higher.

d. Surface Gravel.

Private rights-of-ways need not be paved and may have a gravel surface. Surface gravel shall be placed on top of the aggregate subbase, shall have no stones larger than two (2) inches in size, and meet the following gradation:

**Percentage by Weight Passing**

Sieve Designation	Square Mesh Sieves
2 inch	95-100%
1/2 inch	30-65%
No. 200	7-12%

**E. Sewage Disposal.**

1. Private Systems.

- a. When a proposed subdivision is not within the area designated for public sewage disposal service in the comprehensive plan, if applicable, connection to the public system shall not be permitted. Sewage disposal shall be private subsurface wastewater disposal systems.
- b. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
  1. The Site Evaluator shall certify, in writing, that all test pits which meet the requirements for a new system represent an area large enough to install a disposal area on soils which meet the Disposal Rules.
  2. On lots in which the limiting factor has been identified as being within 20 inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the plan and restricted so as not to be built upon.
  3. In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules.

**F. Impact on Town's Ability to Dispose of Solid Waste.**

If the additional solid waste from the proposed subdivision exceeds the capacity of the town's solid waste facility, causes the town's facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the town to exceed its contract with a non-town's facility, the applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Planning Board may not require the alternate arrangement to exceed a period of five years.

**G. Impact on Natural Beauty, Aesthetics, Historic Sites, Wildlife Habitat, Rare Natural Areas, or Public Access to the Shoreline.**

1. Preservation of Natural Beauty and Aesthetics.

- a. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan if such clearing limitations are required as a condition of Planning Board approval.
- b. A subdivision in which the land cover type at the time of application is forested shall maintain a wooded buffer strip no less than twenty five (25) feet in width along all existing public roads. The buffer may be broken only for driveways and streets. Dead or diseased trees or others such which constitute a safety hazard may be cleared without restriction.
- c. The subdivision shall be designed to minimize the visibility of buildings from existing public roads. Building location shall be restricted from open fields, and shall be located within forested portions of the subdivision, whenever possible. When the subdivision contains no forest or insufficient forested portions to include all buildings, or abutting forest to blend buildings against, the subdivision shall be designed to minimize the appearance of buildings when viewed from existing public streets.
- d. The Planning Board may require that the application include a landscape plan that shall show the preservation of any existing trees larger than 24" inches diameter breast height, the replacement of trees and vegetation, and graded contours.
- e. When a proposed subdivision street traverses open fields, the plans shall include the planting of street trees. Street trees shall include a mix of tall shade trees and medium height flowering species. Trees shall be planted no more than fifty feet apart.
- f. When a proposed subdivision contains a ridge line, the plan shall restrict tree removal and prohibit building placement within fifty (50) feet vertical distance of the ridge top. These restrictions shall appear as notes on the plan and as covenants in the deed.

2. Retention of Usable Open Spaces and Natural or Historic Features.

- a. The subdivision may reserve area of the subdivision as open space in order to provide for the recreational needs of the occupants of the subdivision and/or to maintain the scenic or natural beauty of the area. In determining the need for open space the Planning Board shall consider the recreation plan for open space or recreation facilities in the area surrounding the subdivision and the policies of the plan for meeting those needs; the proximity of the subdivision to neighboring dedicated open space or recreation facilities; the type of development and the demographic characteristics of potential residents in the subdivision; and the density or lot sizes of the development. Any dedicated open space shall permit the applicant to have a reduced lot size of a ratio of 1:1. For example if ten percent of the overall land area is dedicated to open space, the acre lot size may be reduced to .9 acres. Lots with individual disposal systems cannot be reduced to a size of less than .8 acres
- b. If any portion of the subdivision is located within an area designated as a critical natural area by the comprehensive plan, if applicable, or the Department of Economic and Community Development's Natural Heritage Program the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- c. If any portion of the subdivision is designated a site of historic or prehistoric importance, by the

comprehensive plan, if applicable, or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic or prehistoric resources shall be included in the plan.

- d. The subdivision may reserve sufficient undeveloped land to provide for the recreational needs of the occupants. The percentage of usable open space to be reserved shall depend on the identified needs for outdoor recreation in the portion of the town in which the subdivision is located according to the comprehensive plan, if applicable, the proposed lot sizes within the subdivision, the expected demographic makeup of the occupants of the subdivision, and the site characteristics. A site intended to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no side or rear lot line dimensions of less than 200 feet.
- e. Land reserved for usable open space purposes shall be of a character, configuration, and location suitable for the particular use intended.
- f. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Planning Board may deem suitable and no less than twenty-five (25) feet of road frontage. The configuration of such sites shall be deemed adequate by the Planning Board with regard to scenic attributes and significant wildlife habitat to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
- g. Reserved usable open space land may be dedicated to the town.
- h. Where land within the subdivision is not suitable or is insufficient in amount, or where the applicant prefers, or when suggested by the comprehensive plan, if applicable, a payment in lieu of reservation may be substituted for the reservation of some or part of the usable open space requirement. Payments in lieu of dedication should be calculated based on the percentage of reserved usable open space would otherwise be required and that percentage of the projected market value of the developed land at the time of the subdivision, as determined by the town tax assessor. The payment in lieu of dedication shall be deposited into a town land open space or outdoor recreation facility acquisition or improvement fund.

3. Protection of Significant Wildlife and Important Habitat Areas.

- a. If any portion of a proposed subdivision lies within:
  - 1. 250 feet of the following areas identified and mapped by the Department of Inland Fisheries and Wildlife as:
    - a. habitat for species appearing on the official state or federal lists of endangered or threatened species;
    - b. high and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
    - c. shorebird nesting, feeding, and staging areas;
    - d. critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission, or
    - e. 1,320 feet of an area identified and mapped by the Department of Inland Fisheries and Wildlife as a high or moderate value deer wintering area or travel corridor, or
    - f. Other important habitat areas identified in the local comprehensive plan, if applicable,

the applicant shall demonstrate that there shall be no adverse impacts on the habitat and the species it supports. A report prepared by a wildlife biologist, selected or approved by the Planning Board shall be submitted. This report shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision shall have no adverse impacts on the habitat and the species it supports.

b. Public Access to the Shoreline.

Any existing public rights of access to the shoreline of a water body shall be maintained by means of easements or rights-of-way, or should be included in the usable open space, with provisions made for continued public access.

#### **H. Conformance with Land Use Ordinances.**

All lots shall meet the requirements of the Town of Mars Hill Land Use Regulations, Shoreland Zoning Ordinance, and any other applicable local, state, or federal regulations. The proposed subdivision shall meet all applicable performance standards or design criteria from these ordinances.

#### **I. Financial and Technical Capacity.**

##### **1. Financial Capacity.**

The applicant shall have adequate financial resources to construct the proposed improvements and meet the criteria of the statute and the standards of this Ordinance. When the applicant proposes to construct the buildings as well as the subdivision improvements, the applicant shall have adequate financial resources to construct the total development. In making the above determinations the Planning Board shall consider the proposed time frame for construction and the effects of inflation.

##### **2. Technical Ability.**

- a. The applicant shall retain and demonstrate that qualified contractors and consultants have been retained to supervise, construct, and inspect the required improvements in the proposed subdivision.
- b. In determining the applicant's technical ability the Planning Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the existence of violations of previous approvals granted to the applicant.

#### **J. Impact on Ground Water Quality or Quantity.**

##### **1. Ground Water Quality.**

- a. When a hydrogeologic assessment is submitted as required over the aquifer identified on the zoning map or in extensive areas of shallow to bedrock soils where common sewage disposal systems are proposed, the assessment shall contain at least the following information:
  1. A map showing the basic soils types.
  2. The depth to the water table at representative points throughout the subdivision.
  3. Drainage conditions throughout the subdivision.
  4. Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
  5. An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision, at the subdivision boundaries and at a distance of 1000 feet from potential contamination sources, whichever is a shorter distance.
  6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
- b. Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

- c. No subdivision shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
  - d. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality shall be improved or treated.
  - e. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.
  - f. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.
2. Ground Water Quantity.
- a. Ground water withdrawals by a proposed subdivision shall not lower the water table beyond the boundaries of the subdivision.
  - b. A proposed subdivision shall not result in a lowering of the water table at the subdivision boundary by increasing runoff with a corresponding decrease in infiltration of precipitation.

**K. Flood Plain Management.**

When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency:

- 1. Shall conform to the town's Flood Hazard Management Ordinance
- 2. The plan shall include a statement that structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly articulate that the town may enforce any violation of the construction requirement and that fact shall also be included in the deed or any other document previously described. The construction requirement shall also be clearly stated on the plan.

**L. Identification of Freshwater Wetlands.**

Freshwater wetlands shall be identified in accordance with the *Federal Manual for Identifying and Delineating Jurisdictional Wetlands*, published by the Federal Interagency Committee for Wetland Delineation, latest edition.

**M. Stormwater Management**

- 1. All components of the stormwater management system shall be designed to infiltrate, detain, or retain water falling on the site so as to limit peak discharge rates to predevelopment levels for the 2-year, 10-year, and the 25-year frequency, 24-hour duration storms, based on rainfall data for Caribou, Maine.
- 2. The proposed stormwater management system shall be designed by a Maine Registered Professional Engineer or other person duly qualified to undertake the design. The designer of the system shall evaluate the effectiveness of various stormwater methods and develop and make available for review the hydraulic computations based on accepted engineering practices.
- 3. The design of piped or open channel systems shall be based on a ten (10) year flow frequency without

overloading or flooding beyond channel limits. In addition, the areas expected to be flooded by runoff of a twenty-five (25) year frequency shall be designated, and no structures shall be planned within such area.

4. Adequate provision shall be made for disposal of all stormwater generated within the subdivision, and any drained ground water, through a management system of swales, culverts, underdrains, and storm drains.
5. Rights-of-way or easements shall be designated for all components of the stormwater management system lying outside of established street lines. Wherever the storm drainage system is not within the right-of-way of a public street, perpetual easements shall be provided to the town allowing maintenance and improvement of the system. Such rights-of-way shall be at least thirty (30) feet in width.
6. The stormwater management system shall take into consideration the upstream runoff which must pass over or through the development site. The system shall be designed to pass upstream flows generated by a twenty-five (25) year frequency through the proposed development without overloading the system or flooding areas not specifically planned for such flooding.
7. Downstream drainage requirements shall be studied to determine the effect of the proposed subdivision. The storm drainage shall not overload existing or future planned storm drainage systems downstream from the subdivision. The applicant shall be responsible for financing any improvements to existing drainage systems required to handle the increased storm flows.
8. Where permanent embankment-type storage or retention basins are planned, the basins shall be designed in accordance with good engineering practice, such as outlined in the Soil Conservation Service Engineering Field Manual or other appropriate references.
9. Any grading or other construction activity on the site shall not cause unreasonable alteration of natural drainage ways such that drainage, other than that which occurred prior to development, shall adversely affect adjacent parcels of land and that drainage ways flowing from adjacent parcels of land to the development site shall be impeded.
10. The developer shall maintain all components of the stormwater management system until it is formally accepted by the town or a quasi-municipal district, or is placed under the jurisdiction of a legally created association that shall be responsible for the maintenance of the system. The charter of such an association must be acceptable to the Planning Board.
11. The stormwater management system shall be fully coordinated with project site plans, including consideration of street patterns, pedestrian ways, open space, building siting, parking areas, recreational facilities, and other utilities, especially sanitary wastewater disposal facilities.
12. When the construction of a development is to occur in phases, the planning of the stormwater management system should encompass the entire site which may ultimately be developed, and not limited to an initial or limited phases of the development.
13. The minimum pipe size for any storm drainage pipe shall be fifteen (15) inches for driveway entrances and eighteen (18) inches for cross culverts. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in a fine granular material, containing no stones larger than three (3) inches, lumps of clay, or organic matter, reaching a minimum of six (6) inches below the bottom of the pipe extending to six (6) inches above the top of the pipe. Outlets shall be stabilized against soil erosion by stone riprap or other suitable materials which reduce water velocity. Catch basins shall be installed where necessary and located at the curb line.
14. The physical, biological, and chemical properties of the receiving waters shall not be unreasonably degraded by the stormwater runoff from the development site.
15. Storm Drainage Construction Standards.
  - a. Materials

1. Storm drainage pipes shall conform to the requirements of MDOT Standard Specifications for Highways and Bridges, latest edition, materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Plastic (polyethylene) pipes shall not be installed except in closed systems such as street underdrains. Bituminous-coated steel pipes shall not be used.
2. Where the storm drainage pipe is to be covered by ten (10) feet or more of fill material, pipe material with a fifty (50) year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinylchloride (PVC) pipe, and corrugated aluminum alloy pipe.

b. Pipe Gauges

Metallic storm drainage pipe shall meet the following thickness requirements depending on pipe diameter:

Inside Diameter	Material	
	Galvanized CMP Aluminum/Zinc Coated CMP Corrugated Aluminum Alloy	Aluminum Coated CMP Polymer Coated CMP
15" to 24"	14 ga.	16 ga.
30" to 36"	12 ga.	14 ga.
42" to 54"	10 ga.	12 ga.
60" to 72"	8 ga.	10 ga.

- c. Drain inlet alignment shall be straight in both horizontal and vertical alignment unless specific approval of a curvilinear drain is obtained in writing from the Board, after consultation with the Town Engineer.
  - d. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of 400 foot intervals.
16. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris, or foreign matter and shall be kept clean until final acceptance.

**N. Erosion and Sedimentation Control**

1. The procedures outlined in a erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
2. All earth changes shall be designed, constructed, and completed in such a manner so that the exposed area of any disturbed land shall be limited to the shortest period of time possible.
3. The proposed subdivision shall prevent sediment caused by accelerated soil erosion from entering water bodies, freshwater wetlands, and adjacent properties.
4. Any temporary or permanent facility designed and constructed for the conveyance of water around, through, or from the development site shall be designed to limit the water flow to a non-erosive velocity.
5. Permanent soil erosion control measures for all slopes, channels, ditches, or any disturbed land area shall be completed within fifteen (15) calendar days after final grading has been completed. When it is not possible or practical to permanently stabilize disturbed land, temporary erosion control measures shall be implemented within thirty (30) calendar days of the exposure of soil.
6. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

7. When vegetative cover shall be established as a temporary or permanent erosion control measure:
  - a. Plant species to be used and the seeding rates shall take into account soil, slope, climate, duration, and use of the vegetative cover.
  - b. Mulch shall be provided at rates appropriate to ensure a minimum of soil and seed loss until an acceptable "catch" of seed is obtained.
  - c. Reseeding shall be done within a reasonable period of time if there is not an acceptable "catch".
8. All development plans shall incorporate building designs and street layouts that fit and utilize existing topography and desirable natural surroundings to the fullest extent possible.

**O. Reservation or Dedication and Maintenance of Usable Open Space and Common Land, Facilities, and Services.**

1. All usable open space common land, facilities and property shall be owned by:
  - a. The owners of the lots or dwelling units by means of a lot-owners association;
  - b. An association which has as its principal purpose the conservation or preservation of land in essentially its natural condition; or
  - c. The town.
2. Further subdivision of the common land or usable open space and its use for other than non-commercial recreation agriculture or conservation purposes, except for easements for underground utilities, shall be prohibited. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land. When usable open space is to be owned by an entity other than the town, there shall be a conservation easement deeded to the town prohibiting future development.
3. The common land or usable open space shall be shown on the final plan with appropriate notations on the plan to indicate that:
  - a. It shall not be used for future building lots; and
  - b. Which portions of the usable open space, if any, may be dedicated for acceptance by the town.
4. The final plan application shall include the following:
  - a. Covenants for mandatory membership in the lot owners association setting forth the owners' rights, interests, and privileges in the association and the common property and facilities, to be included in the deed for each lot or dwelling.
  - b. Draft articles of incorporation of the proposed lot owners association as a not-for-profit corporation; and
  - c. Draft by-laws of the proposed lot owners association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities.
5. In combination, the documents referenced in paragraph D above shall provide for the following:
  - a. The homeowners association shall have the responsibility of maintaining the common property or facilities.
  - b. The association shall levy annual charges against all owners of lots or dwelling units to defray the expenses connected with the maintenance, repair and replacement of common property and facilities and tax assessments.



- c. The association shall have the power to place a lien on the property of members who fail pay dues or assessments.
- d. The developer or subdivider shall maintain control of the common property, and be responsible for its maintenance until development sufficient to support the association has taken place. Such determination shall be made by the Planning Board upon request of the lot owners association or the developer.

**P. Spaghetti Lots Prohibited.**

No lots created within a subdivision shall have a lot depth to front frontage ratio of greater than 5 to 1.

**Q. Access to Direct Sunlight.**

The Planning Board may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and setback requirements or other permissible forms of land use control.

**Section 11 General Requirements**

**A. Basement Drainage**

If lots are being created to accommodate structures with basements, the subdivider shall show that the floor of the basement can be drained by gravity to the ground surface, or storm sewers, if they are required to be installed, or that the spring water table is one (1) foot below the level of the basement floor.

**B. Conformance with Other Laws/Regulations**

The proposed subdivision shall be in conformance with all pertinent local, State, and Federal ordinances, statutes, laws and regulations. If the proposed subdivision meets the definition of subdivision as defined in the Site Location of Development Act, Title 38, MRSA, Section 482, the subdivider must secure the approval of the Board of Environmental Protection and the Planning Board. When a proposed subdivision requires approval of the Planning Board and the Board of Environmental Protection, each review may be conducted simultaneously. However, each review shall be conducted independently, and the Planning Board may deny approval of the subdivision even though the Board of Environmental Protection has granted an approval under the provisions of the Site Location of Development Act.

**C. Construction Prohibited**

No ditching, grading, or construction of roads, no grading of land or lots, and no construction of buildings shall be done on any part of the actual or proposed subdivision until a final plan of the subdivision has been prepared, submitted, reviewed, approved, and endorsed as provided by this Ordinance, nor until an attested copy of the final plan so approved and endorsed has been recorded by the subdivider in the Aroostook County Registry of Deeds. Plans for road construction, grading, and ditching shall be reviewed by the Road Commissioner for recommendations prior to Planning Board approval.

**D. Lots and Density**

1. Each lot within a subdivision that is to be offered for sale shall be such that any buyer, with or without knowledge of the lots physical characteristics, shall be able to have a principal structure, adequate access, adequate water supply and quality, and adequate sewage disposal system on that lot.
2. A minimum lot size of one (1) acre shall be required, except in cluster type development, where individual lots may be less than one (1) acre, provided that common sewer systems, if required, with adequate treatment facilities as contained in the State of Maine Plumbing Code are constructed and provided that within the subdivision usable common land at a 1:1 ratio per residence or dwelling unit is provided. For example, if 5 acres out of ten is dedicated to common space the lot size may be reduced to .5 acres. Lots with individual disposal systems cannot be reduced by more than .8 acres

3. All lots must have a minimum lot width of 200 feet at the building front yard setback line.
4. All lots must abut a public way unless an access road meeting the following criteria has been constructed within a deeded right-of-way having a minimum width of fifty (50) feet. The access road shall be constructed to a minimum width of twelve (12) feet if serving one dwelling unit, and eighteen (18) feet if serving two (2) dwelling units. The access road shall contain a minimum depth of eighteen (18) inches of bank-run gravel and have drainage ditches and culverts at all appropriate points. Such an access road shall serve no more than two (2) dwelling units. Any access road serving between three (3) and five (5) dwelling units shall meet the "Private" design and construction standards contained in Section 10(D)(5)(b) and (c) within this Ordinance, but need not be paved. Any access road serving more than five (5) dwelling units shall meet the "Residential" design and construction standards contained in Section 10(D)(5)(b) and (c) within this Ordinance. All lots shall have adequate right-of-way access for emergency vehicles to enter, turn around, and exit.
5. Where individual on-site sewage disposal systems are to be utilized, the minimum size of each lot shall be based on soil characteristics, but in no case shall any lot be created that is less than one acre unless the open space requirement is of a 1:1 ratio match is met. Individual on-site sewage disposal systems shall conform to the State of Maine Plumbing Code.
6. The subdivision of tracts into parcels with more than twice the required minimum lot size shall be laid out in such a manner as either to provide for or preclude future division. Deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Board, subject to the criteria of the Subdivision Statute, the standards of this Ordinance and conditions placed on the original approval.
7. If a lot on one side of a stream, road, or other similar barrier fails to meet the minimum requirements for lot size, it should be combined with a lot on the other side of the stream, or road to meet the minimum lot size.
8. In areas served by a postal carrier, lots shall be numbered in such a manner so as to facilitate mail delivery. Even numbers shall be assigned to lots on one side of the street, and odd numbers on the opposite side. Where the proposed subdivision contains the extension of an existing street or street approved by the Planning Board, but not yet constructed, the lot numbers shall correspond with the existing lot numbers. The lot numbering shall be reviewed by the Postmaster and his/her comments considered by the Board.

**E. Land Not Suitable for Development.** The Planning Board shall not approve such portions of any proposed subdivision that are on land created by covering a landfill, diverting a watercourse, and/or located on a filled or drained great pond or wetland, or on soils identified in the Mars Hill Comprehensive Plan as being unsuitable for development unless a Maine Registered Site Evaluator can design an on-site wastewater disposal system acceptable to the Planning Board and the Maine State Plumbing Code.

**F. Permanent Markers.**

1. No person, firm, corporation or other legal entity shall sell or convey any land in an approved subdivision unless permanent markers are set within each lot sold or conveyed. The term "permanent marker" includes the following:
  - a. A granite monument;
  - b. A concrete monument;
  - c. A drill hole in ledge;
  - d. An iron pin; or
  - e. A steel bar no less than 1/2" in diameter and 4' in length.
2. Permanent monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.
3. Permanent granite or concrete monuments shall be a minimum of four (4) inches square at the top and four (4) feet in length, and set in the ground at final grade level. After they are set, drill holes, 1/2 inch

deep shall locate the point or points described above.

4. All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Registration of Land Surveyors.

#### **G. Mobile Home Parks.**

Mobile home parks must comply with the standards of the Maine Manufactured Housing Board. Any mobile home park application shall meet all the requirements for a residential subdivision, shall conform to standards contained within the Manufactured Housing Ordinance for the Town of Mars Hill, all applicable State laws, and any other applicable local ordinances and regulations.

##### **1. Dimensional Requirements.**

Notwithstanding the dimensional requirements of the Mars Hill Land Use Ordinance and the Mars Hill Shoreland Zoning Ordinance, lots, buildings, and accessory structures within a mobile home park shall meet the following dimensional requirements.

##### **A. Lots served by individual subsurface waste water disposal systems:**

Min. lot size:	20,000 sq. ft.
Min. lot width:	100'
Front setback:	20'
Side setback:	20'
Rear setback:	15'

The overall density of any park served by any subsurface waste water disposal system shall not exceed one dwelling unit per 20,000 sq. ft. of the total park area.

##### **B. Lots served by a central subsurface waste water disposal system approved by the Maine Dept. of Human Services:**

Min. lot size:	12,000 sq. ft.
Min. lot width:	75'
Front setback:	20'
Side setback:	20'
Rear setback:	15'

##### **C. Lots located within any shoreland zoning district shall meet the lot area, lot width, and shore frontage requirements for the district.**

##### **D. All buildings on the lot, including accessory buildings and structures, but excluding open decks and parking spaces, shall not cover more than 50% of the lot area.**

##### **E. If a lot is on a public road, the setback shall conform with the residential setback requirements applicable to residential dwelling units for that district.**

##### **F. So as to avoid monotony and sameness, the Planning Board may allow the front setback on a private road, within the mobile home park, to be varied provided that no home may be closer than 10' from the right-of-way and the average distance is at least 20' for all units.**

##### **G. Carports of non-combustible materials are not subject to side setback requirements.**

##### **H. The Planning Board may allow lot side yard setbacks to be reduced to 5', provided a distance of 20' is maintained between units for the purpose of providing more usable yard space on one side of the home.**

##### **I. A minimum distance of 20' separation shall be maintained between all manufactured homes in all directions.**

2. Buffering.

If a park is proposed with a residential density at least twice the density of adjacent development in existence, a continuous landscaped area not less than fifty (50') feet in width which shall contain no structures or streets. The first twenty-five (25') feet of the buffer strip, as measured from the exterior boundaries of the park shall contain evergreen shrubs, trees, fences, walls, or any combination which forms an effective visual barrier to be located on all exterior lot lines of the park, except that driveways shall be kept open to provide visibility for vehicles entering or exiting the park.

3. Open Space Reservation.

An area no less than 10% of the total area of those lots with a lot area of 12,000 sq. ft. shall be reserved as open space. The area reserved as open space shall be suitable to be used as recreational purposes or use by the residents of the park for storage. Generally, the reserved open space shall have slopes less than five (5) percent, shall not be located on poorly or very poorly drained soils, and shall be accessible directly from roads within the park. The Planning Board may waive the requirement for open space when the park is located within one-half mile of a publicly owned recreation area.

4. Road Design, Circulation, and Traffic Impacts.

- a. Streets within a park shall be designed by a Maine Registered Professional Engineer.
- b. The layout and general development plan for streets and driveways within the mobile home park, together with the location and dimensions of access junctions with existing public roads and rights-of-way shall be approved by the Planning Board.
- c. Streets which the applicant proposes to be dedicated as public rights-of-way, shall be designed and constructed in accordance with the standards contained with this Ordinance.
- d. Streets which the applicant proposes to remain private rights-of-way shall meet the following minimum geometric design standards.
  1. Minimum right-of-way width: 23'
  2. Minimum width of traveled way: 20'
- e. One-way streets shall have a minimum right-of-way of 18' and a minimum paved surface of 14'. On-street parking shall be prohibited.
- f. No individual lot within a park shall have direct vehicle access onto an existing public street.
- g. On-street parking shall be prohibited unless an 8' parking lane is provided, in which case on-street parking may be permitted only on the side of the road where the parking lane is located.
- h. Curvilinear streets shall be utilized wherever possible. No street within the mobile home park shall be more than 200' without a curve or a bend.
- i. Cul-de-sac turnarounds shall have a minimum radii of 50' at the outer edge of the pavement, exclusive of any parking areas.
- j. The intersection of any street within a park and an existing public street shall meet the following standards.
  1. The angle of intersection shall be ninety (90) degrees. The minimum angle of intersection shall be seventy-five (75) degrees.
  2. The maximum permissible grade within seventy-five (75') feet of an intersection shall be two (2) percent.
  3. A minimum sight distance of ten (10') feet for every mile per hour of posted speed limit on

the existing road shall be provided. Sight distances shall be measured from the driver's seat of a vehicle that is ten (10') feet behind the curb or edge of shoulder line, with the height of the eye 3 1/2' above the pavement and the height of the object 4 1/4'.

4. The centerline of any street within a park intersecting an existing public street shall be no less than 125' from the centerline of any other street intersecting that public street.
  - k. The application shall contain an estimate of the average daily traffic (ADT) projected to be generated by the park. Estimates of traffic generation shall be based on the Trip Generation Manual, 1987 edition, published by the Institute of Traffic Engineers. If the park is projected to generate more than 500 vehicle trips per day, the application shall also include a traffic impact analysis, by a Maine Registered Professional Engineer with experience in transportation engineering.
  - l. Any mobile home park expected to generate average daily traffic (ADT) of 200 trips or more per day shall have at least two (2) street connections with existing public streets. Any street within a park with an ADT of 200 trips or more per day, shall have at least two (2) street connections leading to existing public streets, other streets within the park, or other streets shown on an approved subdivision plan.
5. Parking Requirements.
- a. For each mobile home park lot there shall be provided two (2) off-street parking spaces. Each parking space shall contain a minimum area of 200 sq. ft. with minimum dimensions 10' by 20'. This requirement may be waived if an equivalent number of parking spaces is provided by the parking lane.
  - b. In addition to occupant parking, off-street guest and service parking shall be provided for within the boundaries of the mobile home park at a ratio of 1 space for each four (4) mobile home park lots. Such parking shall be hard-surfaced and the spaces shall be reserved for that sole use. This requirement shall be waived if a parking lane is provided with an equivalent number of spaces.

6. Utility Requirements.

All mobile home parks shall provide permanent electrical, water, and sewage disposal connections to each mobile home lot in accordance with applicable state and local rules and regulations.

7. Sidewalks/Walkways.

The mobile home park shall contain pedestrian walkways that link all units and all service and recreational facilities. Such walkways shall be adequately surfaced, maintained, and lit. A portion of the road surface may be reserved for walkways provided the roadway width is increased accordingly. Walkways shall be a minimum width of three (3') feet.

8. Lighting.

Outdoor lighting shall be provided to adequately illuminate internal streets and pedestrian walkways. Lights shall be sized and directed to avoid adverse impact on adjacent properties.

9. Signs.

Signs and advertising devices shall be prohibited in a mobile home park, except:

- a. One (1) identifying sign at each entrance of the mobile home park no larger than 24 sq. ft. which may be indirectly lit, but not flashing.
- b. Directional and informational signs for the convenience of tenants and the public relative to parking, office, traffic movement, etc.
- c. Mobile/manufactured home "for sale" signs, provided that such signs that face a public road besides

the road serving the mobile home park lots. They shall be no more than ten (10) sq. ft. and shall be limited to two signs per mobile home park.

- d. Mobile/manufactured homes address signs. The styles and location of the identifying sign shall not interfere with vehicle sight distance and shall be constructed in accordance with local sign ordinance.

10. Storm Drainage.

A storm drainage plan shall be prepared by a Maine Registered Professional Engineer showing ditching, culverts, storm drains, easements, and other proposed improvements sufficient to accommodate a 25-year storm.

11. Ground Water.

- a. Accompanying the application for approval of any mobile home park which is not served by public sewer, shall be an analysis of the impacts of the proposed mobile home park on ground water quality. The hydrogeologic assessment shall be prepared by a Maine Certified Geologist or a Maine Registered Professional Engineer, experienced in hydrogeology, and shall contain at least the following information:

1. A map indicating the basic soil types (medium intensity).
2. The depth to the water table at representative points throughout the mobile home park.
3. Drainage conditions throughout the mobile home park.
4. Data on the existing ground water quality, either from test wells in the mobile home park or from existing wells on neighboring properties.
5. An analysis and evaluation of the effect of the mobile home park on ground water resources. The evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the mobile home park, at the mobile home park boundaries and at a distance of 1000' from potential contamination sources, whichever is a shorter distance. For mobile home parks within the watershed of a lake, projections of the development's impact on groundwater phosphate concentrations, shall also be provided.
6. A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the mobile home park and within 200' of the mobile home park boundaries.

- b. Projections for ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

1. No mobile home park shall increase any contaminant concentration in the ground water to more than one half of the Primary Drinking Water Standards. No mobile home park shall increase any contaminant concentration in the groundwater to more than the Secondary Drinking Water Standards.
2. If ground water contains contaminants in excess of the primary standards, and the mobile home park is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
3. If ground water contains contaminants in excess of the secondary standards, the mobile home park shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

- c. Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the plan.

12. Park Administration.

- a. The owner or operator of a mobile home park shall be responsible for ensuring the maintenance of all park-owned structures and their sites. Park management shall conform to State laws. Compliance with this ordinance shall not exempt the park owner, developer, or manager from complying with other applicable local, state, and federal codes and regulations.
- b. No development or subdivision which is approved under this section as a mobile home park may be converted to another use without the approval of the Planning Board, and meeting the appropriate lot size, lot width, setback, and other requirements. The plan to be recorded at the Registry of Deeds and filed with the town shall include the following restrictions as well as any other notes or conditions of approval.
  1. The land within the park shall remain in unified ownership and the fee to lots or portions of the lots shall not be transferred.
  2. No dwelling unit other than a manufactured housing unit shall be located within the park.

**H. Performance Guarantees**

1. Types of Guarantees.

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

- a. Either a certified check payable to the Town of Mars Hill or a savings account or certificate of deposit naming the Town of Mars Hill as owner, for the establishment of an escrow account;
- b. A performance bond payable to the Town of Mars Hill issued by a surety company, approved by the town council;
- c. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the town may draw if construction is inadequate, approved by the Town Council; or

The conditions and amount of the performance guarantee shall be determined by the Planning Board with the advice of the Road Commissioner, town officers, and/or town attorney.

2. Contents of Guarantee.

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

3. Escrow Account.

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

4. Performance Bond.

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

5. Letter of Credit.

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

6. Phasing of Development.

The Planning Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision street which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

7. Release of Guarantee.

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

8. Default.

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

9. Improvements Guaranteed.

Performance guarantees shall be tendered for all improvements required to meet the standards of this Ordinance and for the construction of the streets, storm water management facilities, and erosion and sedimentation control measures.

- a. The Planning Board may require that the subdivider file with the Planning Board at the time of submission of the final plan, a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Treasurer of Mars Hill and issued by a surety company acceptable to the town. The conditions and amount of such certified check or performance bond shall be determined by the Planning Board with the advice of the town officers. The amount shall be at least equal to the total cost of furnishing, installing, connecting, and completing all of the street grading, paving, storm drainage and utilities or other improvements specified on the final plan within two years of the date of the certified check or performance bond.
- b. The Planning Board may recommend a maximum extension of 12 months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Planning Board and the town officers, good cause for such extension. Such recommendation shall be referred to the town officers for official action.
- c. Before a subdivider may be released from any obligation requiring this guarantee of performance, the Planning Board shall require certification from the various town officers to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (State, Federal, and Local codes, ordinances, laws, and regulations).

**Section 12 Inspection, Violations, and Enforcement**



## **A. Inspection**

1. At least five (5) days prior to commencing construction of required improvements, the subdivider or builder shall notify the Code Enforcement Officer in writing of the time when the developer proposes to commence construction of such improvements, so that the town officers can cause inspection to be made to assure that all town specifications, requirements, and conditions of approval shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
2. If the Code Enforcement Officer finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the Code Enforcement Officer shall so report in writing to the town officers, Planning Board, subdivider, and builder. The town officers shall take any steps necessary to preserve the town's rights.
3. If at any time before or during the construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the Code Enforcement Officer is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The Code Enforcement Officer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Planning Board. Revised plans shall be filed with the Planning Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the subdivider shall obtain permission to modify the plans from the Planning Board.
4. Prior to the sale of any lot, the subdivider shall provide the Planning Board with a letter from a Registered Land Surveyor, stating that all permanent monumentation shown on the plan has been installed.
5. Upon completion of street construction and prior to a vote by the town officers to submit a proposed public way to a town meeting, a written certification signed by a professional engineer shall be submitted to the town officers at the expense of the applicant, certifying that the proposed public way meets or exceeds the design and construction requirements of this Ordinance. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the town officers.
6. The subdivider shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the town or their control is placed with a lot owners association.

## **B. Violations**

1. No plan of a division of land within the town which would constitute a subdivision shall be recorded in the Aroostook County Registry of Deeds until a final plan has been approved by the Planning Board in accordance with this Ordinance. Approval for the purpose of recording shall appear in writing on the recording plan.
2. A person, shall not convey, offer, or agree to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Aroostook County Registry of Deeds.
3. Any person after receiving approval from the Planning Board and recording the plan at the Aroostook County Registry of Deeds, constructs or develops the subdivision, or transfers any lot, in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the Planning Board, where applicable, shall be in violation of this Ordinance.
4. A person shall not sell, lease, or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
5. No public utility, water district, sanitary district, grading or construction of roads, grading of lands or lots, construction of buildings, or any utility company of any kind may install services to any lot or

dwelling unit in a subdivision, until a final plan of such subdivision shall be duly prepared, submitted, reviewed, approved, and endorsed and unless written authorization attesting to the validity and currency of all local permits required under this Ordinance has been issued by the appropriate town officers . Following installation of service, the company or district shall forward the written authorization to the town officers indicating that installation has been completed.

6. No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with these regulations up to and including the entire frontage of the lot. No unit in a multi-family development shall be occupied before the street upon which the unit is accessed is completed in accordance with these regulations.
7. A building inspector may not issue any permit for a building or use within a subdivision unless the subdivision has been approved under this Ordinance and Title 38, §481-490, where applicable.
8. Whenever the subdivision is exempt from MRSA Title 38, §481-490, Site Location of Development, because of the operation of Title 38, §488 (5), that fact must be expressly noted on the face of the subdivision plan to be recorded in the Aroostook County Registry of Deeds. The developable land, as defined in Title 38, §488, (5), must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the Aroostook County Registry of Deeds. This certificate must:
  - a. Indicate the name of the current property owner;
  - b. Identify the property by references to the last recorded deed in its chain of title and by reference to the subdivision plan;
  - c. Indicate that an exemption from Title 38, §481-490, has been exercised;
  - d. Indicate that the requirements of Title 38, §488, (5), have been and shall be satisfied; and
  - e. Indicate the date of notification of the Department of Environmental Protection under Title 38, §488, (5).

The exemption is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval under this Ordinance or the exemption is void.

9. Any person who sells, leases, or conveys for consideration any land or dwelling unit in a subdivision approved under this Ordinance and exempt from Title 38, §481-490, because of the operation of Title 38, §488, (5), shall include in the instrument of sale, lease, or conveyance a covenant to the transferee that all of the requirements of Title 38, §488, (5), have all been and shall be satisfied.

### C. Enforcement

#### 1. Code Enforcement Officer.

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this Ordinance. If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, they shall notify, in writing, the person responsible for such violations, indicating the nature of the violations and ordering the action necessary to correct it. They shall order the removal of illegal buildings, structures, additions or work being done, or shall take any other action authorized by this Ordinance to insure compliance with, or to prevent violation of, its provisions.
- B. The Code Enforcement Officer shall maintain a current file of all pertinent Federal, State and local statutes, ordinances, regulations, codes, and plans relating to land-use regulation including local subdivision plans.
- C. The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions attached to approval. The Code Enforcement Officer may enter any property at reasonable hours and enter any structure with the consent of the property owner, occupant, or agent, to inspect the property or structure for compliance with the laws or ordinances. If consent is denied they should obtain an administrative warrant before entering the property. The Code Enforcement Officer may revoke a permit after proper notification and a public hearing if it was issued in error or if based on erroneous information.

2. Legal Action and Violations. When any violation of any provision of this Ordinance shall be found to exist, the Code Enforcement Officer, is hereby authorized and directed to institute any and all actions and proceedings, either legal or equitable, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the Town of Mars Hill. The town officers or their authorized agent shall take any steps necessary to preserve the town's rights, such as but not limited to, entering into an administrative consent agreement for the purpose of eliminating violations of this Ordinance and recovering fines without Court action. Such agreements shall not allow an illegal structure or use to continue unless there is clear and convincing evidence that the illegal structure or use was constructed or conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith, or unless the removal of the structure or use shall result in a threat or hazard to public health and safety or shall result in substantial environmental damage.
3. Fines. Any person, firm or corporation being the owner, contractor or having control or use of any structure or premises who violates any of the provisions of this Ordinance shall upon conviction be fined in accordance with provisions of 30-A MRSA, 4452. Each day such a violation is permitted to exist after notification shall constitute a separate offense. Fines shall be payable to the town.

## **Section 13 Appeals**

### **A. Making an Appeal**

1. An appeal of an administrative decision of the Planning Board and Code Enforcement Officer may be taken to the Board of Appeals by an aggrieved party. Such appeal shall be made within thirty (30) days of the decision appealed from, and not otherwise, except that the Board of Appeals, upon a showing of good cause, may waive the thirty (30) day requirement.

Note: For the purposes of this subsection, an administrative decision does not include enforcement actions. A decision of the Code Enforcement Officer to take enforcement actions for violations of this Ordinance, or any permit issued pursuant to this Ordinance, is not appealable to the Board of Appeals.

2. Such appeal shall be made by filing with the Board of Appeals a written notice of appeal, specifying the grounds for such appeal.
3. Upon being notified of an appeal, the Planning Board and Code Enforcement Officer shall transmit to the Board of Appeals all the papers specifying the record of the decision appealed from. Each appeal shall be accompanied by a fee to cover advertising and administrative costs. If the actual cost of advertising and notification exceeds the fee paid, the applicant shall pay the balance. The Board of Appeals shall hold a public hearing on the appeal within forty five (45) days.

### **B. Procedure on Appeal**

1. At least fifteen (15) days prior to the date of the hearing on such appeal, the Board of Appeals shall cause to be published in one issue in a newspaper of general circulation in the town a notice which includes:
  - a. The name of the person appealing.
  - b. A brief description of the property involved.
  - c. A brief description of the decision appealed from, or the nature of the appeal.
  - d. The time and place of the Board of Appeal's hearing.
2. At least ten (10) days prior to the date set for hearing, the Board of Appeals shall also cause the Town Clerk to give similar written notice to:
  - a. All property owners of record whose properties lie within 200 feet of the affected property.
  - b. The person making the appeal, and
  - c. The Planning Board, the Code Enforcement Officer, and any other parties of record.

### **C. Hearings**

1. The Board of Appeals may receive any oral or documentary evidence, but shall provide as a matter of policy for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. Every party shall have the right to present their case or defense by oral or documentary evidence to submit rebuttal evidence and to conduct such cross-examinations as may be required for a full and true disclosure of the facts.
2. The appellant's case shall be heard first. To maintain orderly procedure, each side shall proceed without interruption. Questions may be asked through the Chair. All persons at the hearing shall abide by the order of the Chair.
3. At any hearing, a party may be represented by agent or attorney. Hearings shall not be continued to other times except for good cause. For example, if the Board of Appeals determines that the appeal before it was inappropriately classified the Board of Appeals shall give the applicant the opportunity to amend the application and continue the hearing until the public has been properly notified of the appeal's reclassification and of the time and place when the hearing shall continue.
4. The Code Enforcement Officer or their designated assistant shall attend all hearings and may present to the Board of Appeals all plans, photographs, or other material he deems appropriate for an understanding of the appeal.
5. The transcript of testimony, if any, and exhibits, together with all papers and requests filed in the proceedings, shall constitute the record.
6. The record may be keep open after the hearing by order of the Chair until a date established by the order.

#### **D. Decisions of the Board of Appeals**

1. The concurring vote of a majority of the members of the Board of Appeals shall be necessary to reverse any order, requirement, decision, or determination of the Planning Board or the Code Enforcement Officer, or to decide in favor of the applicant on any matter on which it is required to pass under this Ordinance , or to affect any variation in the application of this Ordinance .
2. The Board of Appeals shall decide all appeals within thirty (30) days after the hearing, and shall issue a written decision on all appeals.
3. All decisions shall become a part of the record and shall include a statement of findings and conclusions as well as the reasons or basis therefore, upon all the material issues of fact, law or discretion presented, and the appropriate order, relief, or denial thereof. Notice of any decision shall be mailed or hand delivered to the petitioner, their representative or agent, the Planning Board, agency or office, the Code Enforcement Officer, and the town officers within seven (7) days of the decision date.
4. Upon notification of the granting of an appeal by the Board of Appeals, the Planning Board or the Code Enforcement Officer shall immediately issue a permit in accordance with the conditions of the approval.
5. Appeals may be taken as permitted by law from any decision of the Board of Appeals to Superior Court.

#### **E. Stay of Proceedings**

An appeal stays all legal proceedings related to the action appealed from unless the officer or Planning Board from whom the appeal is taken certifies to the Board of Appeals, after the notice of appeal has been filed with the officer or Board of Appeals, that by reason of facts stated in the certificate a stay would, in the officer or Board of Appeal's opinion, cause irreparable harm to property or create a threat to the life or health of any person including the appellant. In such case, the officer or Board of Appeals, if legally authorized by State law or local ordinance, may seek injunctive relief or, in appropriate cases, refer the matter to the town officers for prosecution.

### **Section 14 Schedule of Fees, Charges, and Expenses**

The town's legislative body shall establish annually, on the advice of the Selectmen and the Planning Board, a schedule of fees, charges, and expenses for matters pertaining to this Ordinance. The schedule of fees shall be posted in the town office, and may be altered or amended only by the town's legislative body. Until all applicable fees, charges, and expenses have been paid in full, no action shall be taken on any application or appeal.

**Section 15 Validity and Conflict of Ordinances**

- A. Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance, and to this end, the provision of this Ordinance are hereby declared to be severable.
- B. This Ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit, or provision of law. Were this Ordinance to impose a higher standard for the promotion and protection of health and safety, the provisions of this Ordinance shall prevail.

**Section 16 Amendments**

**A. Initiation of Amendment.**

An amendment to this Ordinance may be initiated by:

- 1. The Planning Board, provided a majority of the Planning Board has so voted.
- 2. Request of the town officers to the Planning Board or,
- 3. Written petition to the Selectmen of a number of voters equal to at least 10% of the number of votes cast in the town at the last gubernatorial election.

**B. Adoption of Amendment.**

An amendment to this Ordinance may be adopted by:

- 1. A majority vote of the Town Council if the proposed amendment is recommended by the Planning Board, or
- 2. Two-thirds majority vote of the Town Council if the proposed amendment is not recommended by the Planning Board.

**C. Public Hearing.**

The Planning Board shall hold a public hearing on the proposed amendment at least 30 days prior to the meeting of the Town Council. Notice of the hearing shall be posted at least 10 days in advance in a newspaper of general circulation in the area.

**D. Repetitive Petitions.**

No proposed change in this Ordinance which has been unfavorably acted upon by the town's legislative body shall be considered on its merits again by the legislative body within one (1) year after the date of such unfavorable action, unless adoption of the proposed change is recommended by unanimous vote of the Planning Board.

## **Mars Hill Draft Subdivision Ordinance - An Overview**

The subdivision ordinance is used to review land and building developments where there are three or lots created in a five year period or when three or buildings placed on a single lot in a five year period. A likely example of three or buildings creating a subdivision would be the development of a mobile home park.

### **Section 1 Purpose**

Statement of Purpose - what is the document for

### **Section 2 Authority,,Administration, and Effective Date**

Authority: Statements of where the authority is derived to enact the ordinance, the Planning Board administers the ordinance, and the ordinance becomes effective immediately upon enactment

### **Section 3 Definitions**

Definitions: definitions are used to clarify how the ordinance is to be used and interpreted. This guides both the administrators i.e. CEO, Planning Board and the applicants. Undefined words have their ordinary meaning

### **Section 4 Exceptions**

Ordinance not applicable to previously approved, existing, or recorded subdivisions

### **Section 5 Review procedure**

This section provides an introduction to the application review process

### **Section 6 Pre-Application meeting / sketch plan**

This provides an opportunity for the board and applicant to meet and generally discuss the proposal. This procedure proves very helpful to applicants. Fee \$25

### **Section 7 Preliminary Plan Procedure**

Outlines required material to be supplied by the applicant  
Board determines application status within 30 days i.e. complete, incomplete  
if deemed complete, board approves or disapproves plan within 60 days  
Board may hold public hearing  
Fees \$25 per lot

### **Section 8 Final Plan Procedure**

Outlines required material to be supplied by the applicant the material will be submitted in a recordable form

Board determines application status within 30 days i.e. complete, incomplete  
if deemed complete, board approves or disapproves plan within 60 days  
Board may hold public hearing  
Fee \$25 per lot  
Procedure for final approval and recording the plan the registry of Deeds

## **Section 9 Review criteria**

Lists the statutory criteria which must be considered by the board prior to plan approval criteria Title 30-A § 4404, 1. - 18.

Board may waive criteria which is not applicable to the development

## **Section 10 Design guidelines**

A detailed section which sets quantitative criteria which if applicants meet, will provide proof that the review criteria of section 9 are met.

### **\* Highlights \***

Water - wells placed away from roads to avoid salt & phosphorus run-off

Fire - requirement for storage capacity & dry hydrants Fire Chief may waive if alternates are acceptable

Traffic - driveway entrances are controlled by sight distance, entrance angle, curb radius, width, and driveway spacing standards. Access to Rt. 1 is limited to one entrance per subdivision . There are a host of street design and construction standards. Private roads need not be paved. Standards must be met if road to be accepted by the town

Sewage Disposal. - If individual septic proposed, a reserve area is required if ledge, seasonal high water, or poor soils are within 20" of the surface.

Natural Beauty, Open Space, wildlife habitat - 25' buffer along all public roads, buildings within forested parts of lot instead of open fields where possible, where traverses open fields, street trees to be planted, subdivider may dedicate open space but not mandatory, Lot size may be reduced at a 1:1 ratio but no less than .8 acre if lot has individual septic system.

If located on or within 250' of mapped and identified critical wildlife habitat, subdivider submits recommended actions from wildlife biologist.

Stormwater management - Stormwater Management Plan required. Cannot exceed pre development discharge. Help available from area Soil & Water Conservation District(S&WCD)

Erosion & Sedimentation - measures to control erosion during construction and clean-up. Ditched and other disturbed areas to be loamed & seeded - Help available from S&WCD.

## **Section 11 General Requirements**

Lots - 1 acre in size, may be reduced if open space is created. Basements to be drained by gravity or be in areas where the seasonal high water table is one foot below the basement footing.

Mobile Home Parks - Standards set forth for mobile home parks. State law minimums were followed. Could have been a separate ordinance but they are also subdivisions so it made sense to have the standards in this ordinance.

Permanent Markers - lots must have monuments, drill holes, steel bars, or iron pins

Performance guarantees - where public improvements are proposed, subdivider must show either a certified check, or letter of credit, or performance bond to guarantee that proposed improvements will be carried out

**Section 12 Violations, Inspections, Enforcement**

Outlines CEO responsibilities "standard language"

**Section 13 Appeals**

Outlines Board of Appeals responsibilities "standard language"

**Section 14 Fees**

Town Council sets and changes application fees

**Section 15 Conflict with other ordinances**

where there is conflict between another ordinance and this one the more restrictive shall prevail

**Section 16 Amendment**

amended by Town Council procedure is the same as in current zoning ordinance