

**Chapter 18
Subdivisions**

***Approved by City Council
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Chapter 18 Subdivisions

ARTICLE I. PURPOSE

Sec. 18-1. Purpose and Statutory Review Criteria

The purpose of this Ordinance shall be to assure the comfort, convenience, safety, health and welfare of the people, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the City of Old Town, Maine, the Planning Board shall evaluate the proposed subdivision, using the following criteria:

- A. Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider:
 - 1. The elevation of the land and its relation to flood plains;
 - 2. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - 3. The slope of the land and its effects on effluents;
 - 4. The availability of streams for disposal of effluents; and
 - 5. The applicable State and local health and water resources regulations.
- B. Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- C. Will not cause an unreasonable burden on an existing public water supply, if one is to be utilized;
- D. Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- E. Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section
- F. Will provide for adequate solid and sewage waste disposal;
- G. Will not cause an unreasonable burden on the ability of the City of Old Town to dispose of solid waste and sewage with respect to the use of municipal facilities existing or proposed;

- H. Will not place an unreasonable burden on the ability of the City of Old Town to provide municipal or governmental services;
- I. 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 City of Old Town or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- J. Is in conformance with the subdivision ordinance, comprehensive plan, zoning ordinance, floodplain management ordinance or other duly adopted City ordinance or regulation. In making this determination, the municipal review authority may interpret these ordinances and plans;
- K. The subdivider has adequate financial and technical capacity to meet the required standards;
- L. 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 the Mandatory Shoreland Zoning, Act Title 38, chapter 3, subchapter 1, article 2-B, the proposed subdivision will not adversely affect the quality of water or unreasonably affect the shoreline of that body of water.
- M. Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater and aquifers;
- N. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- O. 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;
- P. Any river, stream, or brook, as defined in the Natural Resources Protection Act, Title 38, Section 480-B, within or abutting the subdivision has been identified on any maps submitted as part of the application;
- Q. The subdivision will provide for adequate storm water management;
- R. If any lots in the proposed subdivision have shore frontage on a river, stream, brook or great pond as defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;

- S. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond's phosphorous concentration during the construction phase and life of the proposed subdivision;
- T. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.
- U. Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, section 8869, subsection 14. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Conservation, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or a group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

ARTICLE II. AUTHORITY AND ADMINISTRATION

Sec. 18-2. Authority

- A. This Ordinance has been prepared in accordance with the provisions of the Maine Revised Statutes Amended, Title 30-A, §§ 4401-4407 and all amendments thereto.
- B. This Ordinance shall be known and may be cited as "**Chapter 18 – Subdivisions**"

Sec. 18-3. Administration

- A. The Planning Board of the City of Old Town, as defined under Chapter 13 of the City of Old Town Code of Ordinances, hereinafter called the Board, shall administer this Ordinance. A majority vote of the Board is required for the passage or denial of any motion before the Board.
- B. The provisions of this Ordinance shall pertain to all land within the boundaries of the City of Old Town, Maine.

Sec. 18-4. Amendments

- A. This ordinance may from time to time be amended, supplemented or repealed in accordance with the provisions of Revised Statutes of Maine, as amended.
- B. Amendments may be initiated by a majority vote of the Planning Board, by request of the City Council to the Planning Board or on petition of 10% of the votes cast in the last gubernatorial election in the City.
- C. Proposed amendments shall be acted upon in the following manner:
 - 1. Proposed amendments shall be submitted to the Planning Board for its consideration. The Planning Board shall hold a Public Hearing and advertise the nature, date, time and place of the hearing not less than seven (7) days prior to the date of the hearing in a newspaper of general circulation throughout the City.
 - 2. Prior to the City Council meeting at which the proposed amendment is to be acted upon, the Planning Board shall submit its official report

Reserved Sections 18-5 to 18-10

ARTICLE III. DEFINITIONS

Sec. 18- 11. Definitions

In general, words and terms used in these Standards shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Antenna - A device for radiating or receiving radio waves and which is situated on a permanent foundation.

Buildable Land - That land in a parcel which is left over after all deductions made under the Net Residential area or acreage calculations have been made.,

Central Sewage System - A wastewater disposal system that receives wastewater from

two or more structures. A "centralized" system may have a private sewer collection system flowing into a larger septic tank or it may have building drains flowing into individual smaller septic tanks. The wastewater, after receiving primary treatment in the septic tank or tanks may be pumped or gravity fed to a single subsurface disposal field or several fields on a common land area.

Comprehensive Plan - Any part or element of the overall plan and policy for development of the City of Old Town, Maine, as defined in the Maine Revised Statutes Amended, Title 30-A, § 4314 and all amendments and revisions thereto.

Construction Drawings – Drawings showing the location, profile, grades, size and type of drains, sewers, water main, underground power and telephone ducts, pavements, cross section of streets, miscellaneous structures, etc.

Driveway – Access route or right-of-way to any single family dwelling or to a duplex, triplex or fourplex building except where such buildings are developed as part of a larger subdivision.

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

Engineer – Consulting engineer licensed by the State of Maine.

Engineer, City – The City engineer duly appointed by the City Manager

Final Subdivision Plan – The final drawings, on which the subdivider's plan of the subdivision is presented to the Board for approval and which, if approved, shall be filed for record with the City and the Penobscot County Registry of Deeds.

Legislative Body – City Council of the City of Old Town, Maine.

Net Residential Area or Acreage – The area of a parcel, which is suitable for development as determined by the Planning Board, shall be calculated by subtracting the following from the total or gross acreage of a parcel:

1. Total acreage that is used for street and sidewalk rights-of-way.
2. Portions of the parcel containing slopes over thirty-five (35) percent.
3. Portions of the parcel shown to be within the 100-year flood plain and floodway as designated on Federal Emergency Management Agency (FEMA) maps.
4. Portions of the parcel located in the Resource Protection District.
5. Portions of the parcel which are unsuitable for development in their natural state due to drainage or subsoil conditions, including, but not limited to:
 - A. Water table at or near the surface for all or part of the year.
 - B. Unstable soils such as Sebago Mucky Peat.
6. Portions of the parcel covered by surface waterbodies. Where the extent of unsuitability in a specific case requires interpretation, the Planning Board shall be guided by whether or not the potentially unsuitable area could be

incorporated and used in parcel if the entire tract were developed as a traditional minimum size subdivision.

Net Residential Density - Net Residential Density shall mean the number of units per net residential acre.

Open Space - Land set aside for passive and/or active use, including recreation purposes, preservation of environmentally sensitive areas, common open space in open space subdivision, undevelopable land and buffers.

Open space subdivision - A subdivision wherein each principal building does not occupy a lot meeting the minimum dimensional requirements of Section 111 of the Zoning Ordinance for the district in which it is located, but where the overall net residential density (number of dwelling units per acre or number of non-residential lots , exclusive of streets) does not exceed that established in Section 111 of the Zoning Ordinance..

Official Submittal Date - The time of submission of a Pre-application Plan, Preliminary Plan or Final Plan shall be considered the submission date of the application for such plan approval to the Board, complete and accompanied by any required fee and all data required by these Standards.

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

Planning Board - The Planning Board of the City of Old Town, Maine created under Title 30-A § 3001 of the Maine Revised Statutes, as amended and the Old Town Code of Ordinances Chapter 13.

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

Resubdivision - The division of an existing subdivision, but does not include the moving of interior lot lines as long as the lots remain in conformity with existing zoning ordinance lot requirements and no new lots are created..

Sand and Gravel Aquifer - Areas identified on sand and gravel aquifer maps published by the Maine Geological Survey which are favorable for the development of ground water supplies from sand and gravel deposits.

Sidewalk - A paved way for pedestrian traffic, which is, constructed parallel to a road.

Street - The word "street" means and includes such ways as alleys, avenues, boulevards, highways, roads, streets and other rights-of-way. The term "street" shall also apply to areas on subdivision plans designated as "streets", etc.

Subdivision - The division of a tract or parcel of land as defined in Title 30-A § 4401 et. seq., as amended.

ARTICLE IV. PREAPPLICATION

Sec. 18-12. Procedure

- A. The subdivider shall submit for informal discussion a Sketch Plan and other data relative to the proposed subdivision, which may be of assistance to the Board in making its determination.

On subdivisions of four (4) or more lots, the applicant may submit two (2) preapplication sketch plans; a conventional subdivision plan with lots designed to meet the minimum lot size requirements of the Land Use Ordinance and the requirements of this Ordinance, and an optional open space subdivision plan, prepared in accordance with the requirements of Article XII of this Ordinance. The Planning Board, at its sole discretion, may permit the applicant to proceed with the open space subdivision plan if the Board determines that it best preserves open space, achieves the applicable purposes in Sec 18-132 of this ordinance and otherwise meets the requirements of this Ordinance. The applicant shall prepare the Preliminary Plan and the Final Plan in accordance with the development plan selected by the Planning Board.

- B. The Sketch Plan shall be submitted to the Board at least thirty (30) days prior to the first Planning Board meeting of the month during which the subdivider wishes to be heard. Ten (10) copies of the sketch plan shall be submitted.
- C.. At said meeting, the Planning Board and the subdivider may arrange for a joint inspection of the site with the Board.
- D. Within thirty(30) days after the meeting to review the sketch plan or after the inspection of the site the Board shall inform the subdivider in writing that the plans and data as submitted or as modified do or do not meet the objectives of these standards. Specific suggestions, in writing to be incorporated by the applicant in the applicant's subsequent submissions, shall be made where deemed necessary.

Sec. 18-13. Submissions

- A The Sketch Plan shall show, in simple sketch form, neatly done the proposed layout of streets, lots and other features in relation to existing conditions. The Sketch Plan shall include the existing data listed below
 - 1 Boundary lines
 - 2 Easements - location, width and purpose.
 - 3 Streets on and adjacent to the tract-name and right-of-way width and location.
 - 4 Walks, curbs, gutters, culverts and other known and located underground structures within the tract and immediately adjacent thereto.
 - 5 Existing utilities on and adjacent to the tract.
 - (a) Location and size of all proposed and existing sewers and water mains.
 - (b) Location of fire hydrants, electric and telephone poles.
 - (c) Street lights.
 - (d) If proposed, and/or existing water mains or sewers are not on or adjacent to the tract, indicate the distance to and size of nearest ones.
 - 6 Soil-data adequate to show that the subsurface soil conditions on the tract will accommodate the proposed development, example, but not limited to, soil information form the U.S. Department of Agriculture Soil Conservation Service.
 - 7 Type of land use on and adjacent to the tract.
 - 8 Proposed name of the subdivision or identifying title. This name shall not duplicate or closely resemble the name of a subdivision already existing or proposed in the City.
 - 9 The date, north point, graphic map scale, name and address of record owner and subdivider, and the names of adjoining property owners.
- B. General subdivision information shall describe or outline the existing conditions of the site and the proposed development as necessary to supplement the drawing required above. This information shall include:

- 1 Data on existing covenants.
 - 2 Available community facilities and utilities.
 - 3 Information describing the subdivision proposal such as:
 - (a) Number of residential lots;
 - (b) Typical lot width and depth;
 - (c) Playgrounds, park areas and other public areas;
 - (d) Proposed protective covenant; and
 - (e) Proposed utilities and street improvements.
- C. The applicant shall include in the sketch plan application a list of all requirements for the Preliminary Plan which is not amplifiable to the application or which they would request a waiver of the requirement and an explanation for such. The Planning Board may grant such waivers if the intent of the ordinance is upheld.
- D. The Preliminary Plan shall include a list of the construction items that will be completed by the developer prior to the sale of lots; and the list of construction and maintenance items that must be borne by the municipality, which shall include, but not be limited to: schools, including busing; road maintenance and snow removal; police and fire protection; solid waste disposal; recreation facilities; runoff water disposal drainage ways and/or storm sewer enlargement with sediment traps. The Board may require the developer to provide a Community Impact Statement to the City for the above services, including reasonable cost estimates to the City and the expected tax revenue of the subdivision with the Preliminary Plan Application.

ARTICLE V. PRELIMINARY PLAN

Sec. 18-14. Procedure

- A. Within (12) months after Sketch Plan acceptance by the Board, the subdivider shall submit an application for the consideration of a Preliminary Plan for the Subdivision. The application and all required preliminary plan documentation shall be submitted to the City at least thirty (30) days prior to the first Planning Board meeting of the month during which the subdivider wishes to be heard. Failure to do so shall require re-submission of the Sketch Plan to the Board for review. The Preliminary Plan shall generally conform to the layout shown on the Sketch Plan plus any recommendations made by the Board.
- B. The application for conditional approval of the Preliminary Plan shall be accompanied by a fee as established in a City Fee Schedule revised from time to time by the City Council and payable by check to the City of Old Town, Maine with a note indicating the specific purpose of the fee.

- C. In addition, the Board shall require the owner or the owner's authorized agent to deposit in escrow an amount of money sufficient to cover the costs of any professional review of the subdivision application, which the board may feel, is reasonably necessary to protect the general welfare of the City. The amount for this escrow payment is established in the City Fee Schedule. This escrow payment shall be made before the Board engages any outside party to undertake this review and to make recommendations to the Board. When 75% of the escrow has been disbursed, review of the application shall cease until the applicant replenishes the escrow in an amount to be determined by the Board. Any part of this escrow payment in excess of the final costs for review shall be returned to the owner or the owner's agent.
- D. The subdivider, or the subdivider's duly authorized representative, shall attend the meeting of the Board to discuss the Preliminary Plan.
- E. The secretary of the Planning Board shall review the application and give a preliminary determination of completeness of the application. If incomplete the applicant will be notified of materials needed to complete the application. If the application is determined to be complete the secretary will forward the application to the board for a public hearing. The first item at the public hearing will be to give final determination of completeness of the application. A complete determination does not prohibit the board from requiring further information, if needed, to complete review of the application .
- F. Within thirty (30) days of the close of the public hearing, the Board shall take action to give preliminary approval, with or without modifications, or disapproval of such Preliminary Plan. The reason of any modification required or the ground for disapproval shall be stated upon the records of the Board and a copy provided to the subdivider.
- G. No Preliminary Plan shall be acted on by the Board until the Board has scheduled and conducted a public hearing thereon. Notice of the time, place and date of such hearing shall be sent not less than seven (7) days before the hearing to the subdivider and to owners of adjacent properties. Property owners shall be those listed in the most recent tax records of the City of Old Town. Notice shall also be published in a newspaper of general circulation in the City of Old Town and the first date of the publication shall be at least seven (7) days prior to the public hearing. Failure to receive notice shall not invalidate the public hearing held.
- H. Preliminary approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather it shall be deemed as an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of this Ordinance and the conditions of the preliminary approval, if any. Prior to approval of the Final Subdivision Plan, the Board may require additional changes as a result of further study of the subdivision in final form or as a

result of new information obtained at a public hearing.

Sec. 18-15. Submissions

The following submissions shall be provided for all subdivisions unless the Board determines by majority vote that, based on evidence provided by the applicant, one or more submissions is not applicable due to the size, location, type or other physical feature of the proposed subdivision.

- A. Location Map. The Preliminary Plan shall be accompanied by a Location Map drawn at a scale of not over four hundred feet (400') to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The Location shall also show an outline of the proposed subdivision together with its approximate street system and an indication of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdivider's entire holding.
- B. Preliminary Plan. The Preliminary Subdivision Plan shall be submitted, with ten (10) copies of each map or drawing, together with ten (10) copies of any attachments required for approval. All dimensions shall be shown in feet or decimals of a foot and drawn to a scale of not more than 100 feet to the inch (preferably forty (40) feet to the inch). The Preliminary Plan and accompanying materials shall show:
 - 1. All existing information provided as part of the Sketch Plan.
 - 2. Number of acres within the proposed subdivision and zone boundaries.
 - 3. Proposed lot lines with approximate dimensions, lot numbers (to be obtained from the Old Town Assessor), areas in square feet and suggested locations of buildings.
 - 4. Proposed easements, forested areas, perennial and intermittent watercourses, and wetlands. The boundaries of any wetlands depicted on the plans shall be delineated by a wetlands scientist.
 - 5. Contour lines at intervals of not more than five (5) feet for all portions of the property proposed to be developed.
 - 6. Typical plans and crosssections showing streets, sidewalks, storm sewers and utilities as defined in Chapter 17 (Street and Sidewalks – Article II) of the Old Town Code of Ordinances.
 - 7. If public water and sewer are to be utilized letters from the Water District and Pollution Control Department that they will accept the utilities if constructed according to the plans.

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8. Letters from the Public Works Director, City Engineer and Street Commissioners that they will recommend acceptance of any proposed streets if constructed in accordance with the plans..
9. A medium-intensity soils map that encompasses the area to be subdivided. The Planning Board may require submission of a high-intensity soils map in certain instances.
10. If a private sewage disposal system is proposed, location and results of tests to ascertain subsurface soil ground water conditions and depths to maximum ground water level. A completed HHE 200 form must be submitted with the preliminary application for multi-family subdivisions.
11. For subdivisions of greater than 4 (four) lots that are not served by public sewer, a hydrogeologic assessment prepared in accordance with Sec.18-55 by a certified geologist or licensed professional engineer experienced in hydrogeology.
12. A storm water management plan, prepared by a licensed professional engineer, shall be designed so that the post-development storm water runoff does not exceed the pre-development storm water runoff for the 24-hour duration, 2-,10-, and 25-year frequency storm events. The storm water plan shall be prepared in accordance with *Stormwater Management for Maine: Best Management Practices*, latest edition, prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The storm water plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the stormwater plan and calculations by the Penobscot Soil and Water Conservation District.

If the subdivision requires a Stormwater Permit from the Department of Environmental Protection (DEP), the Board may accept the Stormwater Permit issued by DEP as evidence that Sec. 18-1.Q has been satisfied and that an additional submission required under this section is not required.

13. Preliminary designs of any bridges or culverts, which may be required along with State approval if, required.
14. A standard boundary survey plan of the property to be developed prepared by a licensed land surveyor and the location of temporary markers adequate to enable the Board to locate readily and appraise the basic layout in the field.

15. All parcels of land proposed to be dedicated to public use and the conditions of such dedication.
16. The location of all natural features or site elements to be preserved.
17. An erosion and sediment control plan shall be prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:
 - a. The name, address, and telephone number of the person responsible for implementation of the plan.
 - b. A vicinity map showing the location of waterbodies that may be affected by erosion and sedimentation from the project.
 - c. Existing and proposed drainage patterns, including drainage channels that drain to surrounding waterbodies.
 - d. A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
 - e. Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
 - f. Description of temporary and permanent erosion control practices that will be used.
 - g. Identification of the locations of the temporary and permanent erosion control practices.
 - h. Identification of how and where collected sediment will be disposed.
 - i. Dust control measures.
 - j. Inspection and maintenance procedures, including schedule and frequency.

The Board may require the review and endorsement of this plan by the Penobscot Soil and Water Conservation District.

18. Certification by a licensed professional engineer or a licensed land surveyor that all survey, deed and supporting information accurately reflects the true conditions existing on the proposed subdivision.
19. Base Flood Elevation Data.
20. A landscaping plan.
21. The location of significant resources including important deer wintering areas, other important plant or wildlife habitat and areas with visual significance.
22. The location of any trail or trail system that crosses the property.
23. An owner or his authorized agent shall submit information on the location of the development to the following address:

State Historic Preservation Officer
Maine Historic Preservation Commission
55 Capitol Street
State House Station 55
Augusta, Maine 04333

Include a request that the Old Town Planning Board be notified of any comments. The applicant shall submit to the Planning Board proof of such notification, including a copy of the letter to the State Historic Preservation Officer.

24. A plan for ensuring an adequate on-site water supply for fire suppression. The plan shall be prepared in consultation and approved by the Fire Department and may include, if further than 1000 feet from a fire hydrant, a minimum 10,000 gallon underground storage tank, together with appurtenant piping and hydrants, designed by a licensed professional engineer or an approved building sprinkler system. The plan shall include any existing or proposed perpetual easements necessary to ensure access to fire fighting water supply or hydrants.
25. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours and the sight distances for each driveway that intersects an existing or proposed public or private road in accordance with the provisions of Sec. 18-47.

For subdivisions that will generate more than 200 vehicle trips per day, a traffic impact analysis prepared by a registered professional engineer with experience in traffic engineering. The analysis shall indicate the expected

average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service on the road giving access to the subdivision and neighboring roads that may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates shall be obtained from the latest edition of "Trip Generation", published by the Institute of Transportation Engineers.

- 26 A phosphorous control plan for any portion of the subdivision within the watershed of a great pond prepared in conformance with the provisions of Sec. 18-56. If the subdivision requires a Stormwater Permit from the Department of Environmental Protection (DEP), the Board may accept the Stormwater Permit issued by DEP as evidence that Sec. 18-1.S has been satisfied and that an additional submission required under this section is not required.
- 27 Right, title or interest of the applicant in the property to be subdivided
- 28 A groundwater impact assessment as described in Sec. 18-55 if commercial or industrial developments not tied to city water.

Reserve Sections 18-16 to 18-25

ARTICLE VI. FINAL PLAN

Sec. 18-26. Procedure

- A. The subdivider shall, within *twelve (12)* months after the preliminary approval of the Preliminary Plan, file with the Board an application for approval of the Final Subdivision Plan in the form described herein. The subdivider may be granted an extension by the Board if a letter is submitted explaining the need for additional time. If the Final Plan is not submitted to the Board within *twelve (12)* months after approval of the Preliminary Plan, the Board may refuse without prejudice to act on the Final Plan and require resubmission of the Preliminary Plan. All applications for Final Plan approval for subdivisions shall be accompanied by a fee payable by check to the City of Old Town, Maine. (See City Fee Schedule.) The application and all required final plans shall be submitted to the City Office at least *thirty (30)* days prior to the first Planning Board meeting of the month during which the subdivider wishes to be heard.
- B. If the proposed subdivision requires a permit under the Site Location of Development Act, the Storm water Management Law or the Natural Resources Protection Act or is otherwise under the jurisdiction of the Maine Departments of Environmental Protection or Transportation, the final plan shall not be approved by the Board until all such approvals are obtained.

- C. Public Water Supply system proposals contained in the Subdivision Plan shall be approved in writing by the City Engineer and *Superintendent of the Old Town Water District*:
- D. Sewage disposal system proposals contained in the Subdivision Plan shall be properly endorsed and approved in writing by *the City Engineer and the Superintendent of the Pollution Control Department if city sewer is to be utilized. For subsurface systems a licensed site evaluator needs to show that a subsurface system can be installed according to the Maine Subsurface Disposal rules and approved by the Local Plumbing Inspector*
- E. A public hearing shall be held concerning the Final Plans as prescribed in Sec. 18-14

Sec. 18-27. Submissions

- A. The Final Plan shall be submitted in electronic form along with the mylar original, two reproducible mylars and ten (10) copies, of each map or drawing, together with ten (10) copies of any attachments required for approval. All maps and drawings shall be printed or reproduced in the same manner as the Preliminary Plan. Space shall be reserved thereon for endorsement by all appropriate agencies. The Final Plan shall show:
 - 1 All of the information presented on the Preliminary Plan, Location Map and any amendments thereto suggested or required by the Board.
 - 2 The name, registration number and seal of the land surveyor or engineer or planning consultant who prepared the plan.
 - 3 Street names and lines, pedestrian ways, lots, easements and areas to be reserved for or dedicated to public use.
 - 4 Sufficient data to determine readily the location, bearing and length of every street line, lot line, boundary line, and to reproduce such lines upon the ground. Parting lines of all lands adjoining the subdivision shall be shown.
 - 5 The length of all straight lines, the deflection angles, radii, length of curves and central angles of all curves, tangent distances and tangent bearing for each street.
 - 6 Lots within the subdivision numbered as prescribed by the Old Town Tax Assessor.
 - 7 By proper designation, all public open space for which offers of cession are made by the subdivider and those spaces to which title is reserved by him.
 - 8 Permanent reference monuments shown thus: "X". They shall be

constructed and placed in accordance with specifications herein, and their location noted and referenced upon the Final Plan.

- 9 The Plan shall indicate the proposed landscaping program of the subdivider.
- 10 Any conditions of approval required by the Board
- 11 A statement indicating that any change or modification to any aspect of the approved plan shall be considered an amendment to the plan and shall require approval of the Board, excepting transfer of internal lot lines between abutting owners as long as the lots remain in conformity with the existing zoning ordinance lot requirements and no new lots are created..

B. There shall be submitted to the Board with the Final Plan:

- 1 Written offers of cession to the City of Old Town of all public open space shown on the Plan that is to be transferred to the City, and copies of agreements or other documents are to be submitted showing the manner in which spaces, title to which is reserved by the subdivider.
- 2 *A statement from the applicants design engineer that all infrastructure to be accepted by the city is designed in accordance with good engineering practices.*

Sec. 18-28. Final Approval and Filing

- A. Upon completion of the requirements in Article V and VI above, it shall be deemed to have final approval and the mylar copy shall be properly signed by a majority of the members of the Board, using black ink.
- B. The Board shall act on a Final Plan within thirty (30) days from the date of the close of the Final Plan public hearing unless the subdivider agrees to an extension of the period.
- C. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions of the Plan. The applicant may request that only a section of the approved Plan be filed with the Board and the Penobscot County Registry of Deeds if said section constitutes at least twenty-five (25) percent of the total number of lots contained in the approved Plan. In these circumstances, Plan approval on the remaining sections of the Plan shall remain in effect for two (2) years or a period of time mutually agreed to by the Board and the Subdivider.
- D. After the Final Plans have had the mylar approval entered upon them, a copy of the plans shall be returned to the subdivider. One (1) signed copy, including the *mylar* copy, shall be retained by the City to be maintained in the Subdivision Plan

File. The Plan shall be filed by the applicant with the Penobscot County Registry of Deeds. Any Subdivision Plan not so filed or recorded within sixty (60) days of the date upon which such Plan is approved, shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed two additional periods of sixty (60) days. This 60-day period shall begin the day the plan is signed by the Planning Board.

Any extension of this 60-day period must be requested of the Planning Board before the first 60-day period expires. The applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Penobscot County Registry of Deeds within that time limit stating that the Plan has been filed and giving the Book and Page numbers. No building permits for an approved plan will be issued until the plan has been registered with the Penobscot County Registry of Deeds and a letter from the subdivider has been submitted to the City stating that all permanent monuments as required by Sec. 18-76 of this Ordinance have been placed.

Sec. 18-29. Amendments to Previously Approved Subdivision Plan

- A. Prior to making any change, erasure, modification or revision to a final Subdivision Plan which has been approved by the Board and endorsed in writing on the plan, the plan must be resubmitted to the Board for their review and approval of the proposed modifications. A public hearing may be held concerning a subdivision amendment as prescribed in Sec, 18-14 of this Ordinance. All amended plans must be signed by the Board and recorded in the Penobscot County Registry of Deeds within sixty (60) days of the date of approval. Any amended plan not so filed or recorded within sixty (60) days of the date upon which such plan is approved shall become null and void, unless the particular circumstances of said applicant warrant the Board to grant an extension which shall not exceed two additional periods of sixty (60) days. The applicant shall provide the Code Enforcement Officer (CEO) with a receipt from the Penobscot County Registry of Deeds within that time limit stating that the plan has been filed and giving the book and page numbers.

- B. *The relocation of interior lines within a subdivision are exempt from Planning Board review if the relocation is between abutters, the number of lots remains the same and all the lots remain in conformity with the existing zoning requirements.*

Sec. 18-30. Plan Revisions After Approval

- A. No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless the Plan is first resubmitted and the Board approves any modification as outlined in Article IV of this Ordinance. In the event that a Final Plan is recorded without complying with this requirement, the Board shall file an affidavit with the Penobscot County Registry of Deeds stating that the plan is null and void.

Sec. 18-31. Public Acceptance of Streets, Recreation Areas

- A. The approval by the Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the City of Old Town, Maine of any street, easement or other open space shown on such Plan. Only the Old Town City Council may accept such.

- B. When a park, playground or other recreation area shall have been shown on the Plan, approval of the Plan shall not constitute an acceptance by the City of Old Town of such areas. The Board shall require the Plan to be endorsed with appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the City covering future deed and title, dedication and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

Reserve Sections 18-32 to 18-40

ARTICLE VII. PERFORMANCE GUARANTEES

Sec. 18-41. Performance Guarantee

Prior to the issuance of any building permits all work required under Chapter 17, Article II (Street Acceptance) shall be completed excepting final pavement, curbing and sidewalks. These items may be delayed provided a performance guarantee is created as defined in Chapter 17, Article II.

Sec. 18-42. Project Phasing

The planning board may allow for phasing of the project provided each phase is clearly defined and streets and utilities can be accepted in each phase.

ARTICLE VIII. GENERAL REQUIREMENTS

Sec. 18-43. Compliance with General Requirements

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

Sec. 18-44. Conformity with Comprehensive Plan

Any proposed subdivision shall be in conformity with the Comprehensive Plan of the City of Old Town and with the provisions of all pertinent state and local codes and ordinances.

Sec. 18-45. Retention of Proposed Public Sites and Open Spaces

- A. For subdivisions, the subdivider may reserve a minimum of ten (10) percent of the gross area of the subdivision as open space. Depending on the size and location of the subdivision, the Board may require the developer to provide up to ten (10) percent of his total area for recreation. It is desirable that areas reserved for recreation be at least one acre in size and easily accessible from all lots within the subdivision.
- B. Developers shall be encouraged to retain any existing trail system, which crosses the property, or to re-route the trail system to a suitable portion of the property such that the integrity and continuity of the trail is retained
- C. The Planning Board shall consider the comments of the State Historic Preservation Officer, if any, and may require that significant archaeological or historical sites be preserved to the maximum extent possible during both construction and following completion of the development.
- D. Land reserved for park and/or recreational purposes shall be of a character, configuration and location suitable for the particular use intended. A site to be used for active recreation purposes, such as a playground or a playfield, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Board may deem suitable and shall have no less than twenty-five (25) feet of road frontage. The configuration of such sites shall be deemed adequate by the Board with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.
- E. Where the proposed subdivision is located on a lake, pond, river, saltwater body or stream, a portion of the waterfront area shall be included in reserved land, which shall be a minimum of 200 feet plus ten (10) additional feet for each unit/lot. This requirement may be waived by a vote of the planning board.
- F. Ownership shall be clearly indicated for all reservations of park and playground purposes on the Final Plan and shall be clearly established in a manner satisfactory to the City attorney so as to ensure the continuation of responsibility for ownership maintenance. The land or a part of it may be deeded to the City of Old Town subject to the approval of the City.
- G. The Board may further require that the developer provide space for future municipal uses, in accordance with a Comprehensive Plan or policy statement, giving the City first option on the property.

Sec. 18-46. Preservation of Natural and Historic Features

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

Sec. 18-47. Traffic Sight Distance

All points of access from the subdivision onto existing or proposed public or private roads shall be so designed in profile and grading and so located as to provide a minimum sight distance in each direction of 10 feet per each mile per hour of posted speed limit. The measurements shall be from the driver's seat of a vehicle standing on the exit driveway 12 feet behind the curb line or edge of travelway, with the height of eye 3.5 feet to the top of an object 4.25 feet above the pavement.

Sec. 18-48. Conformance to Shoreland Zoning

Wherever situated, in whole or in part, within 250 feet of the normal high water mark of any pond, river or other salt or fresh water body, or otherwise as shown on the Official Shoreland Map, the proposed subdivision shall conform to the Shoreland Zoning Provisions for the City of Old Town, Maine.

Sec. 18-49. Easements for Natural Drainage Ways

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

Sec. 18-50. Net Residential Density

The calculation of density for all residential subdivisions shall be based on the net residential area or acreage of the parcel as defined herein.

Sec. 18-51. Lots

- A. In a new subdivision, only buildable land as defined in Sec, 18-11, shall be counted for purposes of calculating minimum lot size.
- B. Lot configuration and area shall be designed to provide for adequate off-street parking and service facilities based upon the type of development proposed.
- C. Lots with multiple frontages shall be avoided wherever possible. When lots do have frontage on two or more roads vehicular access shall be encouraged to be located only on the less traveled way.

- D. Wherever possible, side lot lines shall be perpendicular to the street.
- E. The ratio of lot length to width shall not be more than four to one. Flag lots are only allowed in zones where they are permitted with approval of the Planning Board as a Special Exception.
- F. Except for an open space subdivision approved by the Board pursuant to this Ordinance, all lots shall meet the minimum lot size.

Sec. 18-52. Utilities

- A. The size, type and location of public utilities, such as street lights, electricity, telephones, fire hydrants, etc. shall be installed in accordance with the requirements of the Board and this Ordinance.

Sec. 18-53. Additional Requirements

- A. Street trees, esplanades, and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider as construction of the subdivision progresses.
- B. Where a tract is subdivided into lots substantially larger than the minimum size, the Board may require that streets and lots be laid out so as to permit future resubdivision in accordance with the requirements contained in this Ordinance.

Sec. 18-54. Required Improvements

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

Sec. 18-55. Impact on Ground Water Quality.

- A. When a hydrogeologic assessment is required 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 and at the subdivision boundaries. For subdivisions within the watershed of a lake, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.
 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, at any on-site well or at the subdivision boundary to more than the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water at any on-site well or at the subdivision boundary 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 will 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 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.

Sec18-56. Phosphorous Control.

For subdivisions located within the watershed of a great pond, phosphorous export from construction and long term operation shall be equal to or less than that which is calculated using the methodology established by the Maine Department of Environmental Protection and described in "Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development (September, 1992)".

ARTICLE IX. DESIGN STANDARDS

Sec. 18-76. Monuments

- A. Permanent monuments shall be set at all corners and angle points of the subdivision lots and boundaries; and at all intersections and points of curvature. .
- B. All road angle monuments shall be constructed of stone and shall be a minimum of four (4) inches by four (4) inches and four (4) feet long. All other monuments shall be constructed of a reasonably permanent material solidly embedded in the ground and capable of being detected by commonly used magnetic or electronic equipment. The monument shall clearly show the registration number or temporary certificate number of the registered land surveyor responsible for survey. Where the placement of a required monument at its proper location is impractical, it shall be permissible to set a reference monument close to that point.

Sec. 18-77. Street Signs

- A. Streets, which join or are in alignment with streets of abutting or neighboring properties, shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the Board and the city Council.
- B. Stop signs, curve signs or other control or direction signs are the responsibility of the developer and the location, type and size shall be determined by the Public Safety Director.

Sec. 18-78. Streets

- A. Layout
 - 1 Proposed streets shall conform to the requirements of Chapter 17, Article II (Street Acceptance).
 - 2 All streets in the subdivision shall be so designed that, in the opinion of the Board, they shall provide safe vehicular travel while discouraging movement of through traffic.
 - 3 The arrangement, character, extent, width, grade and location of all streets shall be considered in their relation to existing or planned streets, to topographical conditions, to public convenience and safety, and their appropriate relation to the proposed use of the land to be served by such streets. Grades of streets shall conform as closely as possible to the original topography within the limits of these Standards.

- 4 Adequate off-street parking, suitably surfaced, shall be provided in connection with lots designed for commercial and industrial uses.
- 5 The Board may require increased right-of-way widths be provided if it determines that future extension of the street may occur
6. Street entrances onto existing state-aid or state highways in the above-described areas, and driveway or street entrances onto existing state-aid or state highways in all other areas must be approved by the Maine Department of Transportation. Copies of such approval shall be submitted to the Board at the time of final review.
- 7 Where subdivision streets are to remain private roads, the following statement shall appear on the plan to be recorded:

“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 City until they meet all municipal street design and construction standards and are approved as such by the City Meeting.”

B. Design and Construction Standards

See Chapter 17, Article II of the Old Town Code of Ordinances.

Sec. 18-79. Driveway Construction

A new driveway shall be constructed and maintained to prevent water or runoff from reaching the paved or traveled portion of the street. This standard shall not be subject to a waiver by the Planning Board or a variance by the Board of Appeals.

Sec. 18-80. Water Supply

- A. Storage shall be provided as necessary to meet fire protection needs as determined by the Fire Department at the subdivider's expense.
- B. The minimum water main permitted shall be six (6) inches and shall be installed at the expense of the subdivider.
- C. The water supply system shall be designed, approved and installed in accordance with requirements of the Old Town Water District.
- D. Because they are difficult to maintain in a sanitary condition, dug wells shall be permitted only if it is not economically or technically feasible to develop other groundwater sources.
- E. When fire fighting water supply or hydrants are required but not located within a

proposed or existing right of way of a public street, perpetual easements shall be provided to the City allowing for maintenance, improvements, testing and use.

Sec. 18-81. Sewage Disposal

- A. An application for an individual septic system shall be completed by a licensed site evaluator in full compliance with the requirements of the State of Maine Plumbing Code.
- B. Plans for Engineered Systems as defined in the Maine State Plumbing Code shall be designed by a licensed professional engineer and approved by the Department of Human Services.
- C. Regardless of the type of subsurface disposal system proposed, each building lot in a new subdivision shall pass a soils test for an individual subsurface disposal system.

Sec. 18-82. Surface Drainage

- A. All improvements recommended in the drainage plan submitted pursuant to Sec. 18-15.B.12 shall be shown on the approved plan.
- B. Except for normal thinning and landscaping, existing vegetation shall be left intact until developed to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision as detailed in the sedimentation and erosion plan submitted pursuant to Sec. 18-15.B.17.
- C. To prevent soil erosion of shoreline areas, tree cutting on the shoreline shall conform to the Shoreland Zoning Provisions of the City of Old Town, Maine.

Reserved Sections 18-83 to 19-99

ARTICLE X. ENFORCEMENT

Sec. 18-101. General

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

Sec. 18-102. Conveyance prior to Final Approval

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

Sec. 18-103. Penalties

Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by this section shall be a violation and subject to penalties defined in Section 1-8 of the Old Town Code of Ordinances. The City of Old Town may institute proceedings to enjoin the violation of this section.

Sec. 18-104. Public Utility Connections

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

Sec. 18-105. Work prior to Final Approval

Not only is making a subdivision without Board approval a violation of law, but also is grading or construction of roads, grading of land or lots, or construction of buildings until such time as a Final Plan of such subdivision has been approved and endorsed and recorded in the Penobscot County Registry of Deeds.

Sec. 18-106. Severability

The invalidity of any section or provision of this Ordinance shall not be held to invalidate any other section or provision of this Ordinance.

ARTICLE XI. WAIVERS AND LEGAL PROVISIONS

Sec. 18-107. General

Where the Planning Board finds that undue hardship, not self-imposed, will result from strict compliance with this Ordinance, or requirements are not appropriate for the subdivision, it may grant waivers, providing that such waivers will not have the effect of nullifying the intent and purpose of this Ordinance.

Sec. 18-108. Appeals

An appeal of any order, relief or denial made by the Board may be referred by any party to the Superior Court.

Sec. 18-109. Prior Approval

The provisions of this Ordinance, not specifically required by M.R.S.A., Title 30-A, §§4401-4407 shall not apply to any subdivision which has been approved by the Board and recorded in the Registry of Deeds of Penobscot County prior to enactment of this Ordinance.

Reserved Sec 18-110 to 18-130

ARTICLE XII. OPEN SPACE SUBDIVISIONS

Sec. 18-131 Policy

It is the policy of the City of Old Town to allow the use of open space subdivisions in order to preserve a sense of space, provide for sustainable agriculture and forestry as well as recreational land, preserve other resources identified in the City of Old Town Comprehensive Plan, and harmonize new development with the traditional open, wooded, agricultural, rural and village landscapes of the City.

This performance standard is intended to implement that policy by providing incentives that afford flexibility to landowners in road and lot layout and design and road frontage requirements and by allowing the Planning Board to expedite procedure and to waive or reduce certain otherwise applicable standards and provisions of this Subdivision Ordinance if such landowners commit to the permanent preservation of important open space resources. These incentives are designed to encourage greater flexibility and more innovative approaches to housing and environmental design for the development of single and multi-family residential areas that will promote the most appropriate use of land and will preserve, as permanent open space, agricultural or forestry land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents

Sec. 18-132 Purposes

To qualify as an open space subdivision, that Planning Board must find that the subdivision will achieve all of the following purposes that are applicable to its specific circumstances

- A. Long term protection and conservation of existing natural and other resources and landscapes identified in the Comprehensive Plan including but not limited to:
 - 1. State-defined critical areas, and unique natural features located on the parcel to be subdivided;
 - 2. Historic land use patterns and historic structures;

- 3. Points of visual access to or from water bodies, scenic vistas, and points of access to water bodies;
- 4. Contiguous stands of mature trees;
- B.. Maintenance or establishment of compatibility with surrounding land uses and the overall rural character of the City as defined by the Comprehensive Plan;
- C. Provision of adequate buffers for adjoining properties where needed;
- D. Contribution to City-wide open space planning by creating a system of permanently preserved open space, both within large parcels of land and among such parcels throughout the City, and by encouraging linkages between open space areas;
- E. Conservation of land suitable or actively used for agriculture and forestry uses, particularly where the open space subdivision borders active agricultural or forestry land or land suitable for the same;
- F. Conservation of traditional land uses;
- G. Creation of choices in the type of environment (business or residential) and type of housing available that will be a long-term asset to Old Town;
- H. Construction of affordable housing;
- I. Provision of recreation facilities, including active and passive recreational space, in the most suitable locations for use consistent with the other purposes of this performance standard; and
- J. Attainment of planned variety and coordination in the location of structures, architectural styles, and building forms and relationships.

Sec. 18-133 Grouping Contiguous Parcels

In order to increase design flexibility, two or more contiguous parcels of land under the same or different ownership, including parcels separated by a public or private road, may be grouped together as one open space subdivision, if the Planning Board finds that such grouping will benefit the City and that it helps achieve the purposes set forth in Sec. 18-132

Sec. 18-134 Planning Board Review

- A. Preapplication

An individual may apply for approval of an open-space subdivision as part of the preapplication conference described in Article IV.

B. Application Procedure

1. Required Plans.

The submissions for an open space subdivision shall include, as appropriate unless any of the same is waived, all plans and materials required for a conventional subdivision.

2. Waiver of Submission and Review Requirements.

The Planning Board may grant appropriate waivers of submission requirements for an open space subdivision in order to expedite and make the review process more efficient where the number of lots proposed for development in a parcel, is five or fewer within any five-year period.

C. General Requirements

1. Use and District Requirements

All open space subdivisions shall meet the use standards of the Zoning Districts in which they are located and the Planning Board may further limit the uses on the lots created.

2. Allowable Density

a. The allowable density for a proposed development of no more than three lots within any five-year period of a parcel of land under one ownership or a grouping of contiguous parcels as described in Sec. 18-133 shall be determined by the gross lot area of the portion of each parcel proposed for development without reference to net residential acreage, divided by the minimum lot size of the applicable district without reference to net residential acreage.

b. The allowable density for all other developments shall be based on net residential density, and shall be calculated in the following manner:

i. Determine the buildable area of the parcel according to the definition of "net residential area" contained in Article III and reduce it by 20%; then

- ii. Divide the reduced net residential area by the minimum lot size required in the Zoning Ordinance to obtain the net residential density allowable.
- c. A lot for a dwelling unit created as part of an open space subdivision shall not be further subdivided.
- d. A lot for a principal structure created as part of an open space subdivision where such lot shall have within its bounds designated open space shall not be further subdivided unless the original approved plan shall have reserved future development of such lot, but any such further subdivision shall only be made in accordance with this performance standard.
- e. Any affordable housing density bonus provision provided for in the Land Use Ordinance shall also apply within clustered residential projects.

3. Layout and Siting Standards

In planning the location and siting of residential or business structures in an open space subdivision, lot dimension and frontage should not be the primary considerations. Priority should be given to the preservation of the open space for its natural resource value, with human habitation and business activity located and sited on the lower valued natural resource portion of a parcel, taking into account the contours of the land and the reasonableness of slopes.

The building lots on a parcel shall be laid out and the residences and business structures shall be sited so as to maximize the following principles. The Board in its discretion shall resolve conflicts between these principles as applied to a particular site.

- a. In the least suitable agricultural soils and in a manner which maximizes the useable area remaining for the designated open space use, where agricultural, forestry, or recreational, existing or future uses, are particularly sought to be preserved.
- b. In locations least likely to block or interrupt scenic, historic, and traditional land use views, as seen from public roadways and great ponds.
- c. Within woodlands, or along the far edges of open agricultural fields adjacent to any woodland to reduce encroachment upon agricultural soils, to provide shade in the summer, and

shelter as well as solar gain in the winter, and to enable new residential development to be visually absorbed by natural landscape features;

- d. In such manner that the boundaries between residential or business lots and active agricultural or forestry land are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential or business and agricultural or forestry uses;
- e. In locations where buildings may be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas, in accordance with an overall plan for site development;
- f. In locations that provide compatibility in terms of physical size, visual impact, intensity of use, proximity to other structures, and density of development with other permitted uses within the land use district;
- g. In locations such that diversity and originality in lot layout and individual building, street, parking layout is encouraged.
- h. So that individual lots, buildings, street and parking areas shall be designed and situated to minimize alterations of the natural site, to avoid the adverse effects of shadows, noise and traffic on the residents of the site, to conserve energy and natural resources, and to relate to surrounding properties, to improve the view from and of buildings.

4. Space Standards

- a. Shore frontage and shore setback requirements shall not be reduced below the minimum shore frontage or shore setback required in the land use district.
- b. Distances between residential structures in multi-family open space subdivisions shall be a minimum of the height of the tallest structure.
- c. In areas outside of the shoreland zone, the required minimum lot size or minimum land area per dwelling unit for the building envelope may be reduced in open space subdivisions to no less than one-half acre. If the lot area is reduced, the total open space in the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the Zoning Ordinance as modified, if any, by Sec. 19-134.C.2..

- d. Minimum road frontage requirements of the Zoning Ordinance may be waived or modified by the Planning Board provided that:
 - i. Any applicable provisions regarding roads in Chapter 17, Article II (Street Acceptance) are satisfied.
 - ii. Adequate access and turnaround to and from all parcels by fire trucks, ambulances, police cars and other emergency vehicles can be ensured by private roads and /or common driveways.
 - iii. No common driveway shall provide access to more than three (3) lots.
- e. Yard requirements for each lot shall be the same as required for the land use district which it lies.
- f. The designated open space shall represent at least 50% of the total parcel area.

5. Utilities

At the discretion of the Planning Board, in order to achieve the most appropriate design and layout of lots and open space, utilities, including individual wells and septic systems, may be located on designated portions of the open space, if necessary, provided the same shall not unreasonably interfere with the open space purposes to be achieved under this performance standard and for the particular parcel(s) that is the subject of the application for open space subdivision.

- a. The Planning Board may waive or modify hydrogeological reviews or studies, if the applicant demonstrates that due to the specific placement of wells and septic systems:
 - i. adequate groundwater is available at all locations proposed for individual water systems; and that
 - ii. there is no reasonable likelihood that the domestic water supply for any proposed lot will exceed 10mg/l of nitrates.
- b. If a private collection septic system is proposed for a single family or multi-family open space subdivision, the applicant must show either that at least one (1) designated site for

each lot, in the open space or on the lot, has adequate soils and land area suitable for subsurface waste disposal for each lot in accordance with the minimum standards set forth in the Main State Plumbing Code, and that a second designated site on the parcel has the size, location and soil characteristics, to accommodate a system similar to the one originally proposed.

- c. If a private central collection system is proposed, the system shall be maintained by an homeowners association or under an agreement of the lot or unit owners in the same fashion required for maintenance of the open space by a Home Owners Association or the lot or unit owners in common and written evidence of said maintenance agreement shall be submitted to the Planning Board.

D. Open Space Requirements

In Planning Board review and approval of an open space subdivision, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of this Subdivision Ordinance or the Building Code ordinance.

Open space set aside in an open space subdivision shall be permanently preserved as required by this performance standard, except as allowed under this provision for flexible open space and the substitution for and/or the addition to the same, or where open space is dedicated by a landowner under contract with the City for a term of years as set forth below. Land set aside as permanent open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings are permitted, provided that a conservation easement or a declaration of covenants and restrictions is placed on such land pursuant to Sec. 18-134.D.3 and provided that the Planning Board approves such configuration of the open space.

1. Open Space Uses

On all parcels, open space uses shall be appropriate to the site. Open space shall include natural features located on the parcel(s) such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, agricultural land, forested acreage, wildlife habitat, rock outcroppings and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:

- a. On parcels that contain significant portions of land suited to agricultural production, open space shall be conserved for agriculture or other consistent open space uses such as

forestry, recreation (active or passive), and resource conservation.

- b. When the principal purposes of conserving portions of the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, wildlife and plant habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.
- c. Open space areas, shall be contiguous, where possible, to allow linking of open space areas throughout the City.
- d. If the open space is to be devoted, at least in part to a productive land use, such as agriculture or forestry, the developer shall submit to the Planning Board a plan of how such use is to be fostered in the future. Such plan may include, for example, a long-term timber management plan.
- e. The Planning Board may limit the use of any open space at the time of final plan approval where the Board deems it necessary to protect adjacent properties or uses, or to protect sensitive natural features or resources. A proposed change in use of open space land, other than that specified at the time of plan approval, shall be reviewed by the Planning Board as an amendment to the approved plan.
- f. Further subdivision of open space or its use for other than agriculture, forestry, recreation or conservation, except for easements for underground utilities, shall be prohibited and shall be so stated by deed restrictions except as provided in Sec. 18-134.D.3. Structures and buildings accessory to agriculture, recreation or conservation uses may be erected on open space, subject to Planning Board approval these provisions for open space subdivisions.

2. Notations on Plan

Open space must be clearly labeled on the Final Plan as to its, use or uses with respect to the portions of the open space that such use or uses apply, ownership, management, method of preservation, and the rights, if any, of the owners in the subdivision to such land or portions thereof. The Plan shall clearly show that the open space land is permanently reserved for open space purposes, is subject to a reservation for future development and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations or restrictions.

3. Preservation in Perpetuity

An owner of a parcel of land may designate all or a portion of the parcel for open space use in perpetuity if the purposes set forth in Sec. 18-132 are achieved and all other requirements of this performance standard are met subject to the following conditions:

- a. A perpetual conservation easement, or declaration of covenants and restrictions, restricting development of the open space land must be incorporated in the open space plan.
- b. The conservation easement may be granted to or the declarations may be for the benefit of a private party, third party or other entity, the City, with the approval of the City Council, or to a qualified not-for-profit conservation organization acceptable to the Planning Board.
- c. Such conservation easement or declaration of covenants and restrictions shall be reviewed and approved by the Planning Board and be required as a condition of plan approval hereunder.
- d. The Planning Board may require that such conservation easement, or declaration of covenants and restrictions, be enforceable by the City of Old Town if the City is not the holder of the conservation easement or beneficiary of the declarations.
- e. The conservation easement or declarations shall prohibit residential, industrial, or commercial use of such open space land (except in connection with agriculture, forestry, and recreation), and shall not be amendable to permit such use.
- f. The conservation easement or declarations shall be recorded in the Penobscot County Registry of Deeds prior to or simultaneously with the filing of the Open Space Subdivision final plan in the Penobscot County Registry of Deeds.
- g. Notwithstanding the foregoing, the conservation easement, or the declaration of covenants and restrictions, may allow dwellings to be constructed on portions of parcels that include protected open space land, provided that :
 - i. The total number of dwellings permitted by the

conservation easement, or declaration of covenants and restrictions, in the entire subdivision does not exceed the allowable density established in this performance standard above;

- ii The Planning Board grants approval for such lots; and,
- iii. The applicant has reserved the right to apply for approval for such additional lots.

4. Ownership of Open Space Land

Open space land may be held in private ownership (which is to be preferred) including an appropriate third party including the applicant; or owned in common by a homeowner's association (HOA); dedicated to the City, County or State governments or agencies; transferred to a non-profit organization such as a conservation trust, or association, acceptable to the Planning Board; or held in such other form of ownership as the Planning Board finds adequate to achieve the purposes set forth in Sec. 18-132 and under the other requirements of this Ordinance.

The appropriate form of ownership shall be determined based upon the purpose of the open space reservation as stated pursuant to Sec. 18-134.D.1 above. Unless so determined, or unless deeded to the City of Old Town and accepted by the Old Town City Council, common open space shall be owned in common by the owners of the lots or units in the development. Covenants for mandatory membership in the association setting forth the owners' rights, interest, and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.

5. Maintenance Standards

Maintenance standards for open space land, where appropriate, shall be in accordance with other requirements of this Land Use Ordinance.