

**TOWN OF EDDINGTON
SUBDIVISION ORDINANCE**

Prepared for

EDDINGTON PLANNING BOARD

By

PENOBSCOT VALLEY REGIONAL PLANNING COMMISSION

A division of

EASTERN MAINE DEVELOPMENT CORPORATION

March 1982

**REVISED
MARCH 19, 1991**

**REVISED
By the Eddington Planning Board
March 27, 2000
March 19, 2002**

TABLE OF CONTENTS

ARTICLE 100 – Purpose 1

ARTICLE 200 – Authority and Administration 1

ARTICLE 300 – Procedures for Subdivision Review. 4

ARTICLE 400 – Improvement Guarantees. 14

ARTICLE 500 – General Requirements and Design Standards 19

ARTICLE 600 – Waiver and Modification of these Resolutions 26

ARTICLE 700 – Validity, Effective Dated Conflict of Ordinances and Filing. . .26

ARTICLE 800 – Amendments 26

ARTICLE 900 – Appeals 26

TOWN OF EDDINGTON
SUBDIVISION ORDINANCE

ARTICLE 100 - Purpose

The purpose of this subdivision ordinance shall be to assure the comfort, health, safety and general welfare of the people, to protect the environment, to provide for the orderly development of a sound and stable community and to uphold the State Subdivision Law (MRSA Title 30, Section 4956).

ARTICLE 200 - Authority and Administration

210 - Authority

211 - This ordinance is adopted pursuant to and in consistent with MRSA, Section 4956.

212 - This ordinance shall be known and cited as the "Subdivision Ordinance of the Town of Eddington"

220 - Administration and Enforcement

221 - The Planning Board of the Town of Eddington, with the assistance of the Selectmen (as specified in the Ordinance), shall administer this ordinance.

222 - The provisions of this ordinance shall pertain to all land proposed for subdivision, as herein defined, within the boundaries of the Town of Eddington.

223 - No person, firm, corporation or other legal entity may sell, lease, develop, build upon or convey for consideration, offer or agree to sell, lease, develop, build upon or convey for consideration any land in a subdivision which has not been approved by the Eddington Planning Board and recorded in the Penobscot County Registry of Deeds, nor shall such person, firm, corporation or other legal entity sell or convey any land in such approved subdivision unless at least one permanent marker is set at all lot corners of the lot sold or conveyed. The term "permanent marker" includes but is not limited a granite monument, an iron pin or a drill hole in ledge.

The registrar of deeds shall record no subdivision plat or plan that has not been approved as required. Approval for the purpose of recording shall appear in writing on the plat or plan. No public utility company of any kind shall install services to any lot in a subdivision for which a plan has not been approved.

- 224** - The Eddington Planning Board, the Board of Selectmen of Eddington, the Code Enforcement Officer, or the Town of Eddington may institute proceedings to enjoin any violations of this ordinance, and if a violation is found in Court, the Town of Eddington may be awarded attorney fees.
- 225** - Any person, firm, corporation or other legal entity found guilty of a violation of this ordinance shall be punished by a fine of not more than \$1,000 for each such occurrence.
- 226** - Whenever a provision of this ordinance conflicts with or is inconsistent with any other ordinance, regulation or statute, the more restrictive provision shall control.

230 - Definitions

Words and terms not defined shall have their customary dictionary meanings.

The following words and terms, for the purpose of this ordinance, shall be designed as follows:

Development: Any change of land use including, but not limited to, the construction of buildings, parking lots, streets or utilities or the filling or cutting of land areas, or the cutting of trees that is done as part of the site preparation. Development does not, however, include normal agricultural operations, e.g. cultivation of soil, the raising of livestock, or the erection of fences, nor does it include for the purpose of subdivision or site plan review, the erection of barns and other accessory farm building.

Major Subdivision is a subdivision of 5 or more lots that is not a woodlot subdivision

Minor Subdivision is a subdivision of 3 or 4 lots that is not a woodlot subdivision.

Plat: A map or chart of a lot, subdivision or community showing boundary lines, buildings and easements.

Private Road: See the Town of Eddington Road Design Ordinance

Public Street: Any street that has been officially accepted by the Town of Eddington as a public way.

Public Way: See the Town of Eddington Road Design Ordinance

Resubdivision: The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

Road: See the Town of Eddington Road Design Ordinance

Street: A street means and includes such public or private ways as alleys, avenues, boulevards, highways, roads, streets, and other right-of-ways intended for use of motorized passenger vehicles and serving 3 or more dwelling units or abutting lots.

Subdivision: A division of a tract or parcel of land into 3 or more lots within any 5 year period, whether accomplished by:

1. Sale or lease of land;
2. Offering to sell or lease land;
3. Construction, sale or lease of principal buildings; or
4. Offering to construct, sell or lease principal buildings.
5. A mobile home park shall be considered to be Subdivision.

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of such tract or parcel, unless otherwise exempted herein, shall be considered to create the first 2 lots and the next dividing of either of said first 2 lots by whomever accomplished, unless otherwise exempted herein, shall be considered to create a third lot.

Exemptions - In determining whether a tract or parcel of land is divided into three or more lots, the following shall not be considered as for the purpose of this ordinance.

1. One lot that the subdivider has used for his principal residence for a period of at least 5 years immediately prior to the creation of a subdivision;
2. Any lot containing 40 or more acres;
3. Any lot conveyed as a gift to a person related to the subdivider by blood, marriage, or adoption; unless the intent of such gift is to avoid the objectives of the subdivision laws.
4. Any lot created by devise, condemnation or order of court;
5. Any lot transferred to the owner of land abutting thereon; unless the intent is to avoid the objectives of the subdivision laws.
6. Inheritance.

Tract or parcel of land - All contiguous land in the same ownership, provided that land located on opposite sides of a public road shall be considered each a separate tract of land.

Woodlot Subdivision - A Subdivision of land creating lots for the purpose of management and harvesting of wood products. A woodlot subdivision must meet all of the following standards:

1. All lots shall be 10 acres or more in size and shall have frontage on a woodlot road or a street.
2. No building, either temporary or permanent shall be allowed on any lot in a woodlot subdivision.

3. Any road built in a woodlot subdivision shall have a 60 ft. right-of-way and shall be laid out such that it can be upgraded to a street at some time in the future if it becomes appropriate to do so.
4. No subsurface sewage disposal system or other form of sewage disposal system may be located on any lot in the subdivision.

Woodlot Road - A road that serves as an access way to interior lots in a woodlot subdivision.

ARTICLE 300 Procedures for Subdivision Review

310 - Introduction - Whenever any subdivision of land is proposed in the Town of Eddington, the subdivider or his duly authorized agent shall apply in writing for approval of such proposed subdivision in accordance with the procedures in Section 320, 330, and 340.

320 -Sketch Plan Phase

321 - The subdivider shall submit one original and seven copies of a Sketch Plan and application to the Planning Board. These will be provided either at or prior to the meeting in which the proposal is scheduled for discussion. The subdivider, or his authorized agent, shall be present at the meeting to discuss the proposal with the Planning Board.

322 - The purposes of this Sketch Plan conference between subdivider and the Planning Board are:

1. To classify the subdivision as a major, a minor, or a woodlot subdivision;
2. To provide an opportunity for the subdivider and the Planning Board to informally review the subdividers ideas for use of the land;
3. To discuss procedures for subdivision review and approval;
4. To vote whether to waive the requirement for preliminary approval for a woodlot subdivision;
5. If road construction is involved in the proposal, the Planning Board shall classify the road as either a street or a woodlot road;
6. To discuss any apparent potential problems associated with the subdivision; and
7. To arrange for on-site inspection of the subdivision site.

- 323** - The Sketch Plan shall consist of an outline of the proposed subdivision, drawn on a map, showing the proposed layout of streets, lots, and other features in relation to existing conditions. The Sketch Plan may be a free-hand pencil sketch. Accompanying the Sketch Plan shall be a written application that includes a description of existing covenants and easements and Shoreland zoning; medium intensity soils survey information; information about available community facilities and utilities on or near the site; information describing the subdivision proposal including the number of residential lots; typical lot width and depth; plans regarding sewer, water service and road construction; any proposed non-residential areas; and whether the subdivision will be a woodlot subdivision, as defined.
- 324** - Other than the classification of the subdivision and the establishing the procedure for subdivision review, no binding commitments shall be made between the subdivider and the Planning Board at this stage.
- 325** - The Planning Board shall act on the sketch within 20 days of the time it is submitted and shall notify the subdivider of its action in writing, within 20 days of its action.
- 326** - **Inspection of Site** - In order for the Planning Board to be more fully informed about the site of the proposed subdivision, the subdivider shall arrange for an inspection of the site with the Planning Board or an individual appointed by the Planning Board to act as its representative for the inspection. Unless the Planning Board has voted a waiver of inspection, the preapplication phase of the review process shall not be considered complete until such inspection has been made.
- 330** - **Preliminary Plan Phase**
- 331** - **Purpose** -The purpose of Preliminary Plan Review is to give the Planning Board an opportunity to review the subdivider's proposal while it is in the planning stage and to make recommendations to the subdivider as seem appropriate based on state and local laws and regulations. The intent is that all major issues relative to the design of the subdivision will be identified and resolved prior to the submission of the Final Plan.
- 332** - **Procedure**
- 332.1** **Application** - Within six months after the classification of the Sketch Plan by the Planning Board, the subdivider shall submit an application for the consideration of a Preliminary Plan. Failure to do so may require resubmission of the Sketch Plan to the Planning Board for reclassification. The Preliminary Plan shall substantially conform to the layout shown on the Sketch Plan plus any recommendations made by the Planning Board. For a woodlot subdivision, as defined, the Planning Board may vote to waive the requirement for submission of a Preliminary Plan.

- 332.2** The application for approval of the Preliminary Plan shall be accompanied by a fee as determined by the town fee schedule, payable by check to the Town of Eddington, Maine.
- 332.3** The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Preliminary Plan.
- 332.4** The time of submission of the Preliminary Plan shall be the date of a regular scheduled Planning Board meeting. At this time, one original and seven copies of the application for the Preliminary Plan approval, the required fee and all data required by Section 333 of this ordinance shall have been filed with the Planning Board.
- 332.5** **Public Hearing** - The Planning Board may hold a public hearing on the Preliminary Plan. If it determines that a public hearing shall be held, it shall be held within 30 days of the time of submission of the Preliminary Plan. Said hearing shall be advertised in a newspaper of general circulation in Eddington. The date of the first publication to 7 days prior to the hearing. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation, which is applicable to the proposed subdivision, and the relationship of the subdivision to the ordinance, standard, or regulation.
- 332.6** Within 30 days after the public hearing, or within 60 days of the date of submission of the plan if no public hearing is held, the Planning Board shall take action to give preliminary approval, with or without modification, or to disapprove such Preliminary Plan. The reasons for any modifications required or the grounds for disapproval shall be stated upon the records of the Planning Board. Failure of the Planning Board to act within the required time limit shall constitute preliminary approval.
- 332.7** When granting approval to a Preliminary Plan the Planning Board shall state the conditions of such approval with respect to the specific changes, which it will require, in the character and extent of the required improvements for which waivers may have been requested and, which in its opinion, may be waived without jeopardy to the public health, safety, and general welfare. The Planning Board shall notify the subdivider in writing of its decision and any conditions and reasons associated with it.
- 332.8** Approval of a Preliminary Plan shall not constitute approval of the Final Plan but rather it shall be deemed an expression of approval of the design submitted on the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Planning Board and for recording upon fulfillment of the requirements of these standards and the conditions of the preliminary approval, if any.

333 - Submissions The Preliminary Subdivision Plan shall be submitted in the appropriate number of copies, which may be either printed or reproduced on paper. The Preliminary Plan shall be not less than 8 1/2" by 11" and not more than 48" by 36". The plan shall be drawn to scale in which one inch equals no more than 100 feet. The Preliminary Plan and supporting data shall include the following information:

333.1 Information about the applicant

Information to be on the Plan.	Information Written to accompany the plan.	
X	x	1. Name of owner
X	x	2. Name of applicant (if other than owner)
	x	3. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of Secretary of State's Registration.
	x	4. Name of applicant's authorized representative
X	x	5. Name, address, and phone number of Registered Professional Engineer or Land Surveyor who prepared the plan
	x	6. Address to which all correspondence from the Planning Board should be sent.
	x	7. What interest does the applicant have in the parcel to be subdivided (option, land purchase contract, record ownership, etc.)?
X	x	8. What interest does applicant have in any property abutting parcel to be subdivided?
	x	9. State whether the Preliminary Plan covers entire contiguous holdings of applicant or not.

333.2 - Information on Parcel to be subdivided

Information to be on the Plan	Written Information to accompany plan	
	x	1. Location of property: Book and page (from Register of Deeds).
	x	2. Location of property: Map and lot (from assessor's Office).
X		3. Map survey of tract to be subdivided, certified by a Registered Land Surveyor, tied to established reference points (attach to appreciation).
	x	4. Acreage of parcel to be subdivided
X	x	5. A soils report, identifying soil types and areas. Evidence of soil suitability according to the Maine Plumbing Code shall be presented if subsurface sewage disposal is proposed.
X		6. Names of Property owners abutting parcel to be Subdivided, and on opposite side of any road from parcel to be subdivided.
	x	7. Indicate the nature of any restrictive covenant to be placed on the deeds.
X	x	8. Shoreland Zoning if applicable

333.3 - Information on Subdivision

Information to be on the Plan	Written Information to accompany plan	
	x	1. Proposed name of subdivision
X	x	2. Number of lots and lot Sizes.
X		3. Date, north point, graphic map scale.
X		4. Proposed lot lines with approximate dimensions and suggested locations buildings, subsurface sewage disposal systems, and wells.
X	x	5. Location of all parcels to be dedicated to public use.
X		6. A location map showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area. The location map shall show all the area within 2,000 feet of any property line of the proposed subdivision.

X

7. Location of water supply for fire suppression

Revised March 19, 2002

X		8. Location and size of watercourses, and other essential existing physical features including wetlands and floodplains.
X		9. Location and size of existing sewers and watermains, and culverts and drains on the property.
X		10. Location, names and widths of existing and proposed streets, highways, easements, building setback lines, parks and other open spaces.
X		11. Contour lines at an interval of not more than 5 feet in elevation unless otherwise specified by the Planning Board. All elevations shall be referred to U.S.G.S. datum.
X		12. Typical cross-sections of proposed grading for roadways and sidewalks, including materials to be used on roadways and sidewalk.
X		13. Storm drainage plan indicating the approximate location and size of proposed lines and means of disposal.
X		14. The approximate location and size of all proposed water and sewer lines, valves, pump stations and hydrants. Also connections to existing water system or alternative method of water supply and method of sewage disposal shall be shown.
X		15. Location of all other existing and proposed utilities such as electricity and telephone
X		16. Location and type of landscaping including natural growth to be left in place and nursery stock to be planted.
X		17. If the application covers only a part of the subdivider's entire holding, a map of the entire tract, drawn at a scale of one inch equals not more than 500 ft., showing an outline of the platted area with its proposed streets and an indication of the probable future street system in the remaining portion of the tract. The part of the subdivider's holding submitted shall be considered in light of the entire holding
X	x	18. If the Preliminary Plan application covers more area than the Final Plan will cover, a map showing the phasing of the entire project, drawn at a scale of one inch equals not more than 500 ft., and indicating the proposed timing of each phase.
X	x	19. Other reasonable information not indicated above, as specified by the Planning Board.
X	x	20. If the subdivision proposes a new entrance(s) onto any State Highway, the application shall be accompanied by a copy of the Entrance Permit(s) issued by the Maine Department of Transportation.

341 - Procedure

1. Within 6 months of the date of the Planning Board action on the Preliminary Plan or, if the Preliminary Plan requirement has been waived, within 6 months of the Planning Board's vote to waive the requirement, the subdivider shall submit the Final Plan to the Planning Board. Failure to submit the Final Plan within the designated time period may require resubmission of the Preliminary Plan if such was required or of the Sketch Plan if the Preliminary Plan was not required. However, the subdivider may submit a Final Plan for only part of the subdivision approved in the Preliminary Plan. In that case, each successive phase shall be submitted within three years of the preceding phase. The Final Plan shall consist of two original transparencies of one or more maps or drawings and four copies of all items (including maps, drawings, and written information) necessary to complete the submission.
2. The application for approval of the Final Plan shall be accompanied by an application fee plus a fee for each acre or fraction thereof over 4 acres, as determined in the town fee schedule, payable by check to the Town of Eddington, Maine.
3. The subdivider, or his duly authorized representative, shall attend the meeting of the Planning Board to discuss the Final Plan.
4. The time of the Final Plan submission shall be the date of the regular scheduled Planning Board meeting. At this time, one original and 7 copies of the completed application, the required fee and all data required by Section 342 of this ordinance shall have been filed with the Planning Board. The Planning Board shall issue the subdivider a dated receipt for the Final Plan at the time of submission of the Final Plan.
5. Within 30 days from receipt of a Final Plan, the Planning Board shall notify the subdivider in writing either that the application is a complete application or is incomplete. If the application is incomplete, the Planning Board shall notify the subdivider of the specific additional material needed to make a complete application. After the Planning Board has determined that a complete application has been filed, it shall notify the subdivider and begin its full evaluation of the proposed subdivision.
6. Prior to submitting the Final Plan, the subdivider, of a subdivision in which a new road will be built or an existing road will be upgraded, shall file an Improvement Guarantee with the Selectmen. The purpose of the guarantee is to insure that all required subdivision improvements shall be satisfactorily completed. The amount, form and duration of the guarantee shall be that defined under Article 400 of this ordinance.

7. **Public Hearing:** - The Planning Board may vote to hold a public hearing on the proposed subdivision. If so, such hearing shall be held within 30 days of having received a complete Final Plan (as determined under Section 340). The Planning Board shall advertise the public hearing in the manner described in Section 332.5 of this ordinance. The purpose of the public hearing shall be for the Planning Board to receive testimony from the public relative to any municipal or state ordinance, standard, or regulation that is applicable to the proposed subdivision and the relationship of the subdivision to the ordinance, standard, or regulation.
8. **Review and Action on Final Plan:** - The Planning Board shall, within 30 days of a public hearing; or within 60 days of having received a complete application, if no public hearing is held; or within such other time limit as may be mutually agreed to by the Planning Board and the subdivider, review the application and deny or grant approval of the proposed subdivision, or grant approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and state law and to preserve the public's health, safety and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed subdivision does or does not meet the provisions of these regulations and the State Subdivision Law.
9. Upon approval of the plan, at least a majority of the Planning Board members present and eligible to vote shall sign both transparencies and the date and any conditions of approval shall be written on both transparencies. One signed transparency shall be returned to the subdivider for filing with the Registry of Deeds and one signed transparency shall be retained by the Planning Board. The Planning Board shall maintain a permanent record of their action on the Final Plan.
10. In the case of approval of a woodlot subdivision (as defined) the Planning Board shall write directly on the Final Plan the following conditions of approval: "This is approval as a woodlot subdivision. No permanent or temporary building or structure may be erected on any lot in this subdivision. No subsurface sewage disposal system or other form of sewage disposal system may be located on any lot in this subdivision. The subdivision is approved for the management and harvesting of wood products only."
11. No changes, erasures, modifications, or revisions shall be made in any subdivision plan after approval has been given by the Planning Board and endorsed, in writing on the plan, unless the plan is first resubmitted to the Planning Board and the Planning Board approves the modifications. In the event that any such subdivision plan is recorded without complying with this requirement, the same shall be considered null and void, and the Planning Board shall institute proceedings to have the Plan stricken from the records of the Registry of Deeds.

12. The subdivider shall file a signed subdivision plan at the Penobscot County Registry of Deeds within 90 days of the date of approval. Any plan not filed within ninety days will be considered null and void unless the particular circumstances of said subdivider or subdivision warrant the Planning Board to grant an extension that shall not exceed two additional ninety-day periods.

13. If the Planning Board fails to take action within 60 days of the time of submission of a complete Final Plan, or within the mutually agreed to time, as specified above, the subdivision plan shall be deemed disapproved.

14. Approval of a subdivision plan does not imply that the town will accept any road in the subdivision. Only the legislative body of the Town of Eddington, the Town Meeting, can accept a road as a public way.

342 - Submissions - The Final Plan shall be submitted in the appropriate number of paper and transparent copies. The Final Plan shall be submitted on 3 copies of 48" by 36" sheets and 7 copies of not less than 8 1/2" by 11" and not more than 48" by 36". The plan shall be drawn at a scale in which 1 inch equals no more than 100 feet and shall be oriented so the north direction is the same on all sheets.

In addition to all applicable items required on the Preliminary Plan unless otherwise indicated by the Final Plan submissions:

Submission

Major	Minor	Woodlot	Information to be on the plan.	Written information to accompany plan.	
x	X	x	x		1. Registered Land Surveyor or Engineer - The name, registration number, seal and signature of the land surveyor and/or engineer who prepared the plan. This information shall be on all sheets including cross section and profile sheets.
x	X		x		2. Streets - The names and lines, lengths of all straight lines, the deflection of angles, radii, length or curves, and central angles of all curves, an tangent distances and bearings (shown on plan).
x	X		x		3. Street Profiles - Profiles of center lines of proposed new streets on sheets separate from the plat, at a horizontal scale of one inch equals 40 feet; profiles of all proposed sewers shall be shown on

					street profiles, when applicable, at the same scale. All elevations shall refer to U.S.G.S. datum.
x	X		x		4. <u>Street Cross Section</u> - Cross section at 50 foot horizontal intervals of proposed new streets, on sheets separate from the plan, plotted at a scale of plan, plotted at a scale of one inch equals 5 feet. All elevations shall refer to U.S.G.S. datum.
x	X		x		5. <u>Sewer</u> - If congregate sewage disposal system is proposed, a plan and profile of the system to be used and evidence that it will comply with the State of Maine Plumbing Code.
x	X	x	x		6. <u>Storm Drainage Plan</u> - Indicating the location and size of the proposed lines and their profiles and means of disposal.
x	X		x		7. <u>Open Spaces</u> - The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider. If open space or recreation land is to be dedicated to the town, accompanying the plan shall be written copies of any documents of land dedication and a letter from the town attorney that s/he is satisfied with the legal sufficiency of the documents conveying such land dedication.
x	X	x	x		8. <u>Lots</u> - The location, bearing and length of every line, with all lots to be numbered in accordance with the practice of the Town of Eddington

x	X	x	x		9. <u>Permanent Reference Monuments</u> - The location of permanent monuments and pins, set at all lot corners, and identified as existing or proposed.
x	X			x	10. <u>Improvement Guarantee</u> - Accompany the plan shall be a letter from the Selectmen indicating that the form, amount and duration of the improvement guarantee is sufficient and that it has been filed with them, or, in the case of sequential approval according to the guarantee agreement.
x	X	x	x		11. <u>Approval Space</u> - Suitable space to record on the approved plan the date and conditions of approval, if any. This space shall be similar to the following example: Approved: Town of Eddington Planning Board, Chairman _____ Date_____ Conditions_____
x	X			x	12. <u>Accompany Data</u> - If public water is proposed, accompanying the Final Plan shall be a letter from the Superintendent of the Water District stating conditions on which the district will supply water and approving the size and locations of mains, valves and hydrants proposed. Also there shall be a letter from the Fire Chief approving the number, size and location of hydrants proposed.

ARTICLE 400 - Improvement Guarantees

- 410 - Improvement Guarantees**- Before the submission of a Final Plan, the subdivider in a major or minor subdivision as defined in Article 1024, shall provide the Town with improvement guarantees. The guarantee shall be in the form of one or more of the guarantee options listed below in an amount that will cover at least 100% of the cost of completing the construction of street and storm drainage system. The guarantee shall be for the purpose of completing street and storm drainage systems should the subdivider fail to complete the required improvements satisfactorily in accordance with the approved final subdivision plan.
- 420 - Procedure**- The subdivider shall file with the Selectmen a proposed improvement guarantee and the Selectmen shall determine whether the form, amount and the duration of the improvement guarantee are sufficient. In the event the Selectmen refuse to approve the proposed improvement guarantee as filed by the subdivider, they shall so inform the subdivider. In the event the Selectmen approve the proposed improvement guarantee as filed by the subdivider, they shall notify the Planning Board. The Planning Board shall not grant final approval until it has received such notification from the Selectmen. The burden of submitting improvement guarantees in compliance with this ordinance shall at all times remain with the subdivider.
- 421 - Sequential Approval** - If the subdivider chooses and the Selectmen approve the improvement guarantee option of sequential approval, the procedure shall be the same as the procedure established under Article 420. If approved, the Selectmen shall notify the Planning Board that the sequential approval option has been chosen and the Planning Board shall not grant further subdivision approvals in that subdivision or to that subdivider until the Selectmen have notified the Planning Board that the work guaranteed in the approved phase has been satisfactorily completed. Before the option of sequential approval is allowed, the subdivider must obtain approval from the Planning Board of his Preliminary Plan for the entire proposed subdivision.
- 422 - Conditional Approval** - If the subdivider chooses and the Selectmen approve the improvement guarantee option of conditional approval, the procedure shall be the same as the procedure established under Article 420. The Selectmen shall notify the Planning Board that the conditional approval option has been chosen and the Planning Board shall place the following condition on the Final Plan if it is approved:

No lot may be sold in this subdivision until such time as the street and all other necessary improvements are built according to the approved subdivision plan and all applicable construction standards; and, until they are inspected, certified, and approved according to the procedures specified in the Subdivision Ordinance of the Town of Eddington. This subdivision plan is invalid if street and improvement work is not completed within two years of the date of approval of the subdivision, or within the extended time period, if approved by the Selectmen, as per section 432 of the Town of Eddington Subdivision Ordinance.

430 - Time Limit

431 - Completion Deadline - All required improvements within a subdivision shall be completed within 2 years of final subdivision approval. The improvement guarantee must provide performance protection to the Town during said 2 year period plus at least 6 months following the expiration of the 2-year period. The additional 6 month period is required as protection to the Town in the event the subdivider fails to complete the required improvements or fails to complete them satisfactorily.

432 - Extension - The Selectmen may extend the completion deadline for two additional years at one-year increments only where the subdivider presents substantial reason for doing so. No request for extension shall be considered until at least 6 months prior to the original or extended completion deadline. Before extending the initial deadline or the initial extension, the Selectmen shall require that the improvement guarantee be extended in duration to cover the extended period of time plus an additional 6 month period. Before extending the initial deadline, or the initial extension, the Selectmen shall review the form and amount of the improvement guarantee to make certain it remains adequate.

440 - Inspection and Certification

441 - The Selectmen or their duly appointed representative shall regularly inspect the construction of the required improvements for defects. The subdivider shall cooperate with the Selectmen or their representative who is carrying out these inspections. Upon completion of the improvements the Selectmen shall notify the subdivider and the Planning Board, in writing that the improvements have or have not been satisfactorily completed according to the approved final subdivision plan. If the improvements have not been satisfactorily completed, the Selectmen shall list the defects.

442 - Upon completion of the improvements, the subdivider shall file the following with the Selectmen:

1. A sworn statement from the subdivider's engineer that all required improvements are completed in strict compliance with all applicable construction standards and the approved subdivision plan; and that the engineer knows of no defects from any cause, in the improvements;

2. A sworn statement from the subdivider that the improvements are free and clear of any encumbrance or lien; and that the subdivider knows of no defects from any cause, in the improvements.

450 - Release of Guarantee- As soon as the Selectmen or their representative have inspected the improvements and certified that they are satisfactorily completed and the subdivided has filed the letter required in Section 442 of this ordinance with the Selectmen, the Selectmen shall release the previously required improvement guarantee to the subdivider.

460 - Reduction of Guarantee- No improvement guarantees shall be reduced in value until all required improvements are satisfactorily completed.

470 - Incomplete or unsatisfactory Work- If the Selectmen determine, according to the procedures laid out in Section 440 of this ordinance, that the improvements have not been satisfactorily completed according to the accepted subdivision plan, within the agreed upon time, they shall inform the subdivider in writing of the Town's intent to exercise its rights against the improvement guarantee, they shall exercise any and all such rights; and shall cause the incomplete or unsatisfactory work to be completed and to be paid for from the improvement guarantee assets. Any guarantee assets unused in the completion of the unsatisfactory or incomplete work may be returned to the subdivider at the discretion of the Selectmen.

480 - Improvement Guarantee Options

481 - Performance Bond- Under this improvement guarantee option, the subdivider shall obtain a subdivision bond from a surety bonding company authorized to do business in the State of Maine. The bond shall be payable to the Town of Eddington and shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional Engineer and as approved by the Selectmen. The duration of the bond shall be for a period of time acceptable to the Selectmen, but in any case shall be for at least 2 years and 6 months and for not more than 3 years, unless the subdivider is granted an extension in accordance with Section 432 of this ordinance. In the event an extension is granted, the Selectmen shall require the duration of the subdivision bond to be extended for at least 6 months from the termination of the new time limit but not for more than 1 year from the termination of the new time limit.

482 - Property Escrow- Under this improvement guarantee option, the subdivider shall provide real estate as a guarantee. The value of such property shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional Engineer and as approved by the Selectmen.

If property escrow is proposed for the improvement guarantee, the subdivider must comply with the following requirements:

1. The value of the real estate shall be the value as established by the Town Assessor and, in making his valuation; the Town Assessor shall take into account the possibility of a decline in value during the improvement guarantee.
2. The subdivider shall, at his expense, provide the Town; said title opinion shall establish that the subdivider has good and clear title to the premises, free of all liens, and encumbrances. However, if encumbrances do exist on said real estate, the Selectmen may, at their discretion, accept the proposed real estate as security, provided that they determine that it is in the Town's best interest to do so.
3. The subdivider shall enter into an Agreement with the Town and a mortgage; said mortgage shall be recorded in the Registry of Deeds; said Agreement and mortgage shall provided that the ownership of the property shall be transferred to the Town, unless the subdivider satisfactorily completes the required improvements in accordance with this ordinance and with the approval final subdivision plan. Said Agreement and mortgage shall be in such form and shall contain such additional provisions as may be required by the Selectmen.

483 - Letter of Credit- Under this improvement guarantee option, the subdivider shall provide as a guarantee an irrevocable letter of credit from a bank or other reputable institution satisfactory to the Selectmen, such letter of credit to be in form satisfactory to the Selectmen. Such letter of credit shall be for an amount sufficient to cover the full cost of all required improvements as estimated by a registered professional Engineer and as approved by the Selectmen.

The letter of credit shall be deposited with the Selectmen and shall certify the following:

1. That the creditor does guarantee funds in an amount equal to the costs as estimated for the subdivider by a registered Professional Engineer and approved by the Selectmen, of completing all required improvements;
2. That, in case of failure on the part of the subdivider to complete the specified improvements satisfactorily within the required time period, the creditor shall pay to the Town of Eddington immediately, and without further action, such funds as are necessary to finance the proper completion of these improvements, up to the credit limit stated in the letter; and
3. That the letter of credit is valid for the period of time required by the Selectmen. The period of time, not less than 2 years and 6 months from the date of subdivision approval, shall be stated in the letter. During that time, the letter may not be withdrawn or reduced in amount except with the approval of the Selectmen.

484 - Cash Escrow- Under this improvement guarantee option, the subdivider shall provide as guarantee cash held in an account at a bank or other reputable institution subject to the approval of the Selectmen. The amount of cash shall be in an amount sufficient to cover the full cost of all required improvements as estimated by a registered Professional Engineer and approved by the Selectmen. The subdivider shall enter into an Agreement with Town that shall stipulate the terms under which the Town may accept a cash escrow.

490 - Alternative Guarantee Options

491 - Sequential Approval- Where a subdivision is to be developed in several sections and where the Preliminary Plan, as approved, shows the proposed subdivision for the entire tract of land, the Selectmen may, at their discretion, waive the use of any other form of guarantee herein specified on the initial sections provided that such sections may not be larger than 16 lots or 50 percent of the total lots in the subdivision, whichever is less. If this option is approved, the Selectmen shall so notify the Planning Board. The Selectmen shall further inform the Planning Board of the number of lots that can be approved and that no further final subdivision approvals may be granted in the subdivision or to the subdivider until the improvements in the approved section are satisfactorily completed. When such improvements are approved, the Selectmen shall notify the Planning Board, thus allowing it to consider further sections of the subdivision. This process of sequential approval may continue, one section at a time, with the Final Plan approval for each succeeding section being contingent upon the satisfactory completion of all contracted improvements in each preceding section and acceptance of those improvements in accordance with Section 440 of this ordinance and within any required time limits. Completion of improvements in the final section of the subdivision, which shall include at least 16 lots, or 50 percent of the total number of lots in the subdivision, whichever is less, must be guaranteed through the use of one or more of the other improvement guarantee options provided in this ordinance. If a subdivider wishes to use this form of improvement guarantee, he must include in this preliminary plan information on the phasing of the entire project including the expected timing of the lots and improvements to be developed and/or completed in each section of the subdivision.

492 - Conditional Approval- Where the subdivider shows evidence of financial capacity to complete all required improvements, and evidence of satisfactory prior performance in subdivisions of similar size and character, the Selectmen may waive the use of any other form of guarantee herein specified and allow conditional approval. Evidence of financial capacity shall be a current financial statement certified by a public accountant and/or other verifiable proof, satisfactory to, or required by, the Board of Selectmen. If this option is approved, the Selectmen shall so notify the Planning Board. If the Planning Board approves the subdivision, it shall add the condition, as stated in Section 422 of this ordinance, to their approval. This shall be written directly on the Final Plan.

When all required improvements have been completed, inspected, certified, and approved according to the procedures in Section 450 of this ordinance, the Selectmen shall so notify the Planning Board. The Planning Board shall file in Penobscot County Registry of Deeds a signed certificate of final approval. Such certificate shall say:

This is to certify that all street and other necessary improvements have been built in the _____ subdivision that was approved by the Planning Board of the Town of Eddington on _____. Such improvements were built according to the approved subdivision plan and all applicable construction standards. They have been inspected, certified, and approved according to the procedures specified in the Subdivision Ordinance of the Town of Eddington. Furthermore, the work was completed within two years of the date of approval of the subdivision, or within the extended time period, if approved by the Selectmen. This certificate constitutes evidence of satisfactory completion of the conditions placed on the subdivision plan relative to improvement guarantee. (See Section 422 of the Eddington Subdivision Ordinance). It does not affect any other condition that the Planning Board may have placed on the subdivision plan at the time of approval.

Date: _____ Signed _____
Planning Board Chairman

The certificate shall be signed by a majority of Planning Board members.

ARTICLE 500 - General Requirement and Design Standards

In considering applications for subdivision of land, the Planning Board shall be guided by the standards set forth hereinafter. The said standards shall be considered to be minimum requirements and shall be waived by the Planning Board only under circumstances set forth in Article 600 of this ordinance.

510 - General Requirements

- 511 - **Conformity with other laws and regulations**- All proposed subdivisions shall be in conformity with the Comprehensive Plan of the Town of Eddington, as amended, and with the provisions of all pertinent state and local codes, ordinances, laws, and regulations.
- 512 - **Character of the land**- Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health, or peril from fire, flood, or other menace. The Planning Board shall not approve such portions of any proposed subdivision that are located on land below sea level, within the 50 year frequency flood plain, or on land that must be filled or drained, or on land created by diverting a watercourse. In no instance shall the Planning Board approve any part of a subdivision located on filled tidal land.

520 - Lots

- 521 - **Lots to be buildable** - The lot arrangement shall be such that in constructing a building in compliance with the laws and ordinances of the Town of Eddington and the State of Maine there will be no foreseeable difficulties for reasons of topography or other conditions.
- 522 - **Sidelines** - All sidelines of lots shall be at right angles to straight street lines and radial to curved street lines, unless a variance from this rule will give a better street or lot plan.
- 523 - **Corner lots** - In general, corner lots should be larger than interior lots to provide for adequate building setback from each street and to provide a desirable building site.
- 524 - **Access from private streets** - Access from private streets shall be deemed acceptable only if such streets are designed and improved in accordance with these regulations
- 525 - Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street service and parking facilities for vehicles by the type of use and development contemplated.
- 526 - The subdividing of land shall be such as to provide that all lots shall have access.
- 527 - If a tract of land is subdivided into larger parcels than ordinary building lots, such parcels shall be so arranged as to allow the opening of future streets.
- 528 - Each lot in a subdivision must be a minimum of two (2) acre in size and have at least two hundred (200) feet frontage on an accepted town, or 60' deeded right of way or county or state way or on a way constructed in accordance with the provisions of the Subdivision Ordinance.

530 - Blocks - The length, width and shape of blocks shall be determined with due regard to:

1. Provisions of adequate building sites suitable to the special needs of the type of use contemplated;
2. Any land use regulations such as lot size, dimensions, and density of development;
3. Needs for convenient access, circulation, control and safety of street traffic;
4. Limitations and opportunities created by topography and other natural conditions; and
5. The relationship of the proposed subdivision to existing uses and patterns of land development.
6. In general, block lengths should not exceed 1,000 feet or be less than 500 feet and block widths should not be more than 500 feet or be less than 200 feet for residential use.

540 - Drainage Improvements

541 - Removal of Spring and Surface Water - The subdivider may be required by the Planning Board to carry away by pipe or open ditch any spring, surface, or storm water that may exist either previous to, or as a result of the subdivision. Such drainage facility shall be located in the street right-of-way where feasible, or in a perpetual, unobstructed drainage easement or right-of-way that,

1. Conforms substantially to the course of the water's natural path;
2. Provides sufficient width as to accommodate all storm water and will prevent flooding; and
3. Is turned over to the Town of Eddington.

542 - Drainage structure to accommodate potential development upstream - A culvert or other drainage facility shall be large enough to accommodate potential runoff from its entire upstream drainage area, whether inside or outside the subdivision.

550 - Open Space and Recreation Land

551 - Requirement - The Planning Board may require that up to 5% of the land area of a subdivision with more than 20 acres or 20 lots be set aside for open space or recreation. The actual amount of land and its location shall be satisfactory to the Planning Board. In making decisions about land set aside, the Planning Board shall be guided by the following standards:

1. Any land to be set aside as a requirement of this ordinance shall be reasonably adaptable for use for active play and recreation purposes unless the Planning Board agrees to an open space area designed primarily for the protection of the natural environment. The Planning Board may only agree to the designation of such natural area if it determines that the active play and recreation needs of the residents of the subdivision will be reasonably met by other existing facilities. Active play and recreation areas shall be located so as to be convenient to the people to be served. Factors used in evaluating the adequacy of proposed park and recreation areas shall include size and shape, topography, geology, tree cover, access, location and projected use.
2. In no case shall a subdivider be required to set aside more than 5% of the land area of a subdivision for open space or recreation purposes without financial compensation.

In deciding whether to require land set aside, the Planning Board shall be guided by the following considerations:

1. Is the subdivision already served by adequate recreational opportunity?
2. Does the Town's adopted Comprehensive Plan call for a park to be located in the area of the subdivision?
3. Is the subdivision adjacent to a community park or open space area that would be benefited by the addition of land in the subdivision?

552 - Provision for Ownership and Maintenance of Open Space of Recreation

Land - If land is set aside under the provisions of 551 of this ordinance, the subdivider shall make provisions for the permanent ownership, protection and maintenance of such land. The Planning Board shall not approve such provision or the subdivision until it is satisfied that the land will be protected as open space in the future and that adequate provision has been made for its ownership and maintenance. The subdivider shall either:

1. Retain ownership and responsibility for maintenance of such land; or
2. Dedicate such land and property or facilities to public use if the Town or another public agency has indicated it will accept such dedication; or
3. Provide for and establish one or more organizations for the ownership and maintenance of all common open space and property. Such organization shall be either a non-profit homeowner's association or a community open space trust. If a homeowner's association or open space trust is formed, it shall be governed according to the following regulations:

- 1) The organization shall be organized by the subdivider and operating, with financial subsidization by the subdivider, if necessary, before the sale of any lots within the development.
- 2) Membership in the organization is mandatory for all purchasers of lots therein and their successors.
- 3) The organization shall be responsible for the maintenance, the insurance and the taxes of common open space or recreation land.
- 4) The members of the organizations shall share equitably the cost of maintaining and developing common open space and recreation land in accordance with procedures established by them.
- 5) The organization shall have or hire adequate staff to administer common facilities and maintain the common open space and recreation land.

560 - Street Standards

561 - Layout of Streets - All streets in a subdivision shall be planned so as to meet the following standards:

1. 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.
2. The proposed streets shall conform, as far as practical, to the adopted Comprehensive Plan or policy statement of the Town of Eddington.
3. All streets in the subdivision shall be designed so as to provide safe vehicular travel.
4. The arrangement of streets in the subdivision shall provide for the continuation of streets into adjoining unsubdivided land unless topographic or other factors make continuance impracticable or undesirable.
5. Reserve strips controlling access to streets shall be prohibited, except where their control is definitely placed in the Town under conditions approved by the Planning Board.
6. Where a subdivision abuts or contains an existing arterial street, the Planning Board may require such road or lot configuration, which are necessary for adequate protection of residential properties and to afford separation of through and local traffic.

7. Intersections of streets shall be at angles as close to (90 degrees) ninety degrees as possible. In no case shall two streets intersect at an angle of less than (60 degrees) sixty degrees. The centerlines of no more than two streets shall intersect at any one point. A distance of at least 200 feet shall be maintained between centerlines of offset intersecting streets.
8. Whenever possible, subdivisions containing fifteen lots or more shall have at least two street connections with existing public streets or streets shown on the Official Road Map, if such exists; or
9. Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require land in the subdivision, the subdivider shall be required to show areas for widening or realigning such roads on the Preliminary Plan and the Final Plan, marked "Reserved for road realignment or widening purposes". Land reserved for such purposes may not be used for building purposes.

562 - Design and construction standards - All streets in a subdivision shall be designed and constructed to meet the "Road Design Ordinance of the Town of Eddington" requirements. Revised March 19, 2002

563 - Utilities in Streets - The Planning Board shall, wherever possible, require that underground utilities be placed in the street right-of-way between the paved roadway and the street line to simplify location and repair of lines when they require attention. The sub-divider shall install underground service connections to the property line of each lot within the subdivision for such required utilities before the street is paved.

570 - Utilities

571 - Easements - The subdivider shall install any new public utility system at his own expense, according to the approved subdivision plan. If the utility follows a course that is not collinear with the road network and in the road right-of-way, the Planning Board shall require that the subdivider provide the appropriate utility administrative body with a utility easement before granting final approval. Such utility easement shall be wide enough for maintenance of the utility system and shall be not less than 12 ft. wide.

572 - Water Systems

1. Where possible, water service with fire hydrants shall be obtained from the appropriate public water utility.
2. Where public water service is provided, the system shall be designed according to the specifications of the appropriate public water utility.

3. If individual wells are proposed for the subdivision, the Planning Board may require that the sub-divider's engineer certify that sufficient water is available for the reasonably foreseeable needs of the subdivision.
4. The Board may allow the use of individual wells or a private central water system.
5. Dug wells shall be prohibited.
6. When a development is to be served by a central water supply system, the complete supply system, including any required fire ponds and dry hydrants, shall be installed at the expense of the subdivider.
7. If a central water supply system is provided by the developer, the location and protection of the source as well as the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water.
8. The applicant shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the Town granting access to the dry hydrants where necessary. The Board may waive the requirement for fire ponds and dry hydrants only upon a finding by the Board that adequate, alternate fire-fighting provisions exist or will be built as part of the approved plan. When calculating the minimum water supplies needed for fire-fighting, generally accepted standards, including but not limited to the current edition of National Fire Protection Association 1142 Water Supplies for Suburban and Rural fire-fighting, shall be used.

Revised March 19, 2002

573 - Sanitary Sewerage System

1. If subsurface sewage disposal is proposed, each sewage disposal system shall comply with the Maine State Plumbing Code.
2. If a sewage disposal system is proposed that will service more than one building, the system and related equipment shall be designed by a professional engineer and shall comply with all requirements of the Maine State Plumbing Code.

580 - Off site Improvements - Where necessary to serve the needs of the proposed subdivision and to protect the health, safety and general welfare of the community, the Planning Board may require that off-site improvements of streets, sewer, and/or water systems be completed at the subdivides expense. Existing unpaved streets shall, whenever necessary, reasonable, and practical, be widened and improved to the standards required by this ordinance. Utilities shall be designed and built or improved to the standards of this ordinance.

ARTICLE 600 - Waiver and Modification of these Regulations

- 610** - Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other ordinance.
- 620** - In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

ARTICLE 700 - Validity, Effective Dated Conflict of Ordinances and Filing

- 710** - Should any section or provision of these regulations be declared by the courts to be invalid, such section shall not invalidate any other section or provision of these regulations and to this end, and the provisions of these regulations are hereby declared to be severable.
- 720** - The effective date of these regulations is the date they are enacted by the Legislative body of the Town of Eddington.
- 730** - These regulations shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulations, by-law, permit, or provision of law. Where these regulations impose a higher standard for the protection and promotion of health and safety, the provisions of these regulations shall prevail.
- 740** - A copy of these regulations shall be filed with the Town Clerk and shall be accessible to any member of the public.

ARTICLE 800 - Amendments

These regulations may be amended by a majority vote of the Town at Town Meeting. A copy of all amendments shall be filed with the Town Clerk.

ARTICLE 900 - Appeals

An appeal may be taken, within 30 days from the Planning Board's decision on the Final Plan, by any party to Eddington Board of Appeals in accordance with Rule 80B of the Rules and Civil Procedure.