

# **SUBDIVISION ORDINANCE**

## **TOWN OF EDDINGTON**

### **PUBLIC REVIEW DRAFT**

**APRIL 7, 2010**

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# **Chapter 1**

## **General Provisions**

### **101 Title:**

This Ordinance shall be known as the Town of Eddington Subdivision Ordinance and will be referred to as “this Ordinance”.

### **102 Authority:**

This Ordinance has been prepared in accordance with the provisions of Title 30 - A, M.R.S.A. Section 4403.

### **103 Purpose:**

The purposes of this Ordinance are:

- To provide for an expeditious and efficient process for the review of proposed subdivisions.
- To clarify the approval criteria of the State Subdivision Law, found in Title 30 -A, M.R.S.A. Section 4404.
- To preserve and enhance the rural character of the community.
- To assure the safety, health, and welfare of the people of the Town of Eddington.
- To protect the natural resources of the Town of Eddington.
- To assure that a minimal level of services and facilities are available to the residents of new subdivisions, and that lots in subdivisions can support the proposed uses and structures.
- To promote the development of an economically sound and stable community.

### **104 Applicability:**

The provisions of this Ordinance shall apply to all development considered a subdivision as defined by Title 30 -A, M.R.S.A Section 4401, and Mobile Home Parks, RV Parks, Campgrounds, and Multiple Family projects consisting of more than 3 dwelling.

### **105 Availability:**

A copy of this Ordinance shall be on file with the Town Clerk and shall be accessible to any member of the public. Copies shall be made available to the public at reasonable cost at the expense of the person making the request. Notice of availability of this Ordinance shall be posted.

### **106 Validity and Severability:**

Should any section or provision of the Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this Ordinance.

**107 Conflict with Other Ordinances:**

This Ordinance shall not repeal, annul, or in any way impair or remove the necessity for compliance with any other rule, regulation, by-law, permit or provision of law. Whenever a provision of this Ordinance conflicts with, or is inconsistent with another provision of this Ordinance, or of any other ordinance, regulation or statute, the provision imposing the greater restriction upon the use of the land, buildings or structures shall control.

**108. Amendments:**

The procedures for amended this Ordinance shall comply with Chapter 1 Section 108 of the Zoning Ordinance.

**109 Effective Date:**

The effective date of this Ordinance is

**Chapter 2**  
**Review Criteria**

**201 Review Criteria:**

The Planning Board shall consider the following criteria and before granting approval must determine that:

**201.1** The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:

- The elevation of the land above sea level and its relation to the floodplain,
- The nature of the soils and subsoils and their ability to adequately support waste disposal,
- The slope of the land and its effect upon effluents,
- The availability of streams for disposal of effluents, and
- The applicable state and local health and water resource rules and regulations.

**201.2** The proposed subdivision has sufficient water available for the reasonable needs of the subdivision.

**201.3** The proposed subdivision will not cause an unreasonable burden on any existing water supply, if one is to be used.

**201.4** The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

**201.5** The proposed subdivision will not cause unreasonable highway or public road congestion

or unsafe conditions with respect to the use of the highways or public roads existing or proposed, 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 M.R.S.A Title 23, Section 754, the Department of Transportation has provided documentation indicating that driveways or entrances conform to M.R.S.A. Title 23, Section 704 and any rules adopted under that section.

**201.6** The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are used.

**201.7** The proposed subdivision will not cause an unreasonable burden on the town's ability to dispose of solid waste, if town services are used.

**201.8** The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, archeological sites, significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the Town, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline.

**201.9** The proposed subdivision conforms to all the applicable standards and requirements of this Ordinance, the comprehensive plan, and other local ordinances. In making this determination, the Planning Board may interpret these ordinances and plans.

**201.10** The subdivider has adequate financial and technical capacity to meet all the review criteria, standards, and requirements contained in this Ordinance.

**201.11** 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 M.R.S.A. Title 38, Chapter 3, Subchapter 1, Article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.

**201.12** The proposed subdivision will not, alone or in conjunction with existing activities, adversely affects the quality or quantity of ground water.

**201.13** Based on 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 boundary 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 the lowest floor, including the basement, at least one foot above the 100-year flood elevation.

**201.14** All wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. All wetlands shall be preserved to the greatest extent practicable.

**201.14.1** All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district.

**201.15** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. All rivers, streams or brooks shall be protected from any adverse development impacts. For the purposes of this chapter river, stream, or brook has the same meaning as in M.R.S.A. Title 39, Section 480-B, subsection 9.

**201.16** The proposed subdivision will provide for adequate storm water management.

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

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

**201.19** For any subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

**201.20** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to M.R.S.A. Title 12, Section 8869, Subsection 14. If a violation of the rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the Planning Board 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. The Planning Board may request technical assistance from the Department of Conservation, Maine Forest Service to determine whether a rule violation has occurred, or the Planning Board may accept a determination certified by a forester licensed pursuant to M.R.S.A. Title 32, Chapter 76. If the Planning Board requests technical assistance from the Maine Forest Service, the Forest Service shall respond within 5 working days regarding its ability to provide assistance. If the Forest Service agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The Forest Service shall provide a written copy of its finding and determination to the Planning Board within 30 days of receipt of the Planning Board request. If the Forest Service notifies the Planning Board that the Service will not provide assistance, the Planning Board may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this chapter “ Liquidation Harvesting” has the same meaning as in M.R.S.A. Title 12, Section 8868, subsection and “parcel” means a contiguous area within the town owned by one person or a group of persons in common or joint ownership.

## **Chapter 3**

### **Administration and General Procedures:**

#### **301 Administration:**

**301.1** The Planning Board shall administer this Ordinance and review all subdivision applications according to the applicable review criteria and standards.

**301.2** The Planning Board shall provide the Code Enforcement Officer and the Selectmen a copy of its decision on a subdivision application including all application materials.

#### **302 Decisions:**

**302.1** The Planning Board shall determine if the subdivision application is complete before it schedules a public hearing or meeting and begins a review of the application.

**302.2** After review of a complete application, the Planning Board shall determine whether the application meets the Review Criteria contained in Chapter 2 of this Ordinance. The Planning Board shall make a written finding of fact to support its decision and vote to approve the application, deny the application, or approve the application with conditions.

**302.3** If in its findings, the Planning Board determines that the application may not meet the review criteria, and that additional actions by the applicant will be sufficient to meet them, it may require such actions, as conditions of approval. The conditions may set forth requirements in addition to those set forth in the Ordinance only when the Planning Board finds it necessary to further the purposes of this Ordinance. All conditions approved by the Planning Board shall be listed along with the reasons for these conditions in the Planning Board's decision and on the final subdivision plan.

**302.4** The Planning Board shall list any waivers approved by the Board on its decision form, and, on the final subdivision plan, and the reasons for such approval.

#### **302.5 Burden of Proof:**

**302.5.1** The applicant shall have the burden of proof to show the proposed subdivision application meets the applicable review criteria and standards contained in this Ordinance.

#### **302.6 Additional Studies:**

**302.6.1** The Planning Board may hire a consultant or require additional studies be performed to review the entire, or portions of the subdivision application. The cost to perform additional studies or hire a consultant shall be borne by the applicant. Whenever the Planning Board decides to undertake additional studies or hire a consultant, the Planning Board shall require the applicant to deposit with the Town the estimated cost of any consultant or additional study which shall be placed in an escrow account. The Town shall pay for the services rendered and reimburse the applicant, if funds remain after payments are completed. The applicant shall place additional funds into the escrow account as required to meet expenses.

**302.7 Rights Not Vested:**

**302.7.1** The submittal of a sketch plan or a preliminary plan to the Planning Board to review for a complete application shall not be considered the initiation of the review process for the purposes of bringing the application under the protection of M.R.S.A. Title 1, Section 302. The formal review process shall begin upon written notification to the applicant that a complete application has been received.

**302.8 Site Inspection:**

**302.8.1** The Planning Board may vote to schedule an on-site inspection of the proposed project. The Planning Board shall schedule the date and time of the site inspection at the sketch plan meeting or at another time. The Planning Board shall post the date, time and place of the site inspection at the Town Office.

**302.8.2** The Planning Board may vote to reschedule the site visit and delay its review of the subdivision application whenever it finds that snow cover prohibits viewing land features of the proposed site.

**302.8.3** The purpose of the site inspection is for the Planning Board to obtain knowledge about the site and surrounding area. The Planning Board shall not discuss the merits of the application or render any decision concerning the application during the site inspection.

**302.9 Waivers:**

**302.9.1** The Planning Board may vote to waive any of the review criteria and/or ordinance performance standards when it finds one of the following:

**302.9.1.1** One or more of the review criteria and /or ordinance performance standards are not applicable to the proposal due to the size of the project, circumstances of the site, design of the project, or unique features of the proposal.

**302.9.1.2** The applicant has proposed an alternative design that meets or exceeds the requirements set forth in the performance standards.

**302.9.2** The applicant shall submit information and materials that support the waiver request with the application.

**302.9.3** The Planning Board may only consider a waiver request when the applicant has submitted a written waiver request in the application. The first item of the application review shall be a consideration of any waiver request. The Planning Board shall review the request and if it meets the criteria for a waiver, shall approve the request. If the Planning Board finds that the request does not meet the waiver criteria, the Board shall deny the request. The applicant shall amend the application as required if the waiver is not approved by the Board. The Planning Board may vote to suspend review of the application until the applicant provides any information necessary because of not obtaining the waiver. In no case shall the Planning Board make a final decision upon the application until the applicant supplies any additional information to the satisfaction of the Board.

**302.10 Subdivision Review Process:**

**302.10.1** All subdivision applicants shall be required to follow a three-tier review process as follows:

- Sketch Plan Review
- Preliminary Plan Review
- Final Plan Review

The Planning Board may vote to allow a subdivision which does not contain any new roads or a woodlot subdivision to submit a final plan for review directly after the Sketch Plan Review meeting. The Planning Board shall make this decision after reviewing the sketch plan proposal.

**302.11 Revisions to Approved Plans**

**302.11.1** An application for a revision to a previously approved plan shall be submitted to the Planning Board at least 20 days prior to a scheduled meeting of the Planning Board. If the revision involves a modification to a condition imposed by the Planning Board, the addition of additional units; the addition of new lots; or an expansion of the subdivision, then the procedure for a new application shall be followed. If the revision only involves minor modifications to the plan, or a request to extend the public improvement completion deadline, the Planning Board may consider the revision request at the meeting. The Planning Board may vote to hold a public hearing on the proposed revision.

**302.11.2** The Planning Board's scope of review shall be limited to those portions of the plan which are proposed to be revised or that are adversely impacted by the proposed revision.

**302.11.3** The applicant shall submit a copy of the approved plans and 9 copies of the revised portions of the plans. The application shall include enough supporting data to allow the Planning Board to make a decision that the proposed revision meets the review criteria.

**302.11.4** The Planning Board shall vote to approve the revision, deny the revision or approve the revision with conditions. The Planning Board may vote to require that additional information be submitted to ensure that the review criteria are met.

**302.12 As Built-Plans:**

**302.12.1** Upon Completion of all the public improvements contained in the subdivision, the applicant shall submit a mylar, and a digital copy if available, of the as-built plans to the Planning Board.

**302.13 Appeals to Superior Court:**

**302.13.1** An aggrieved party may appeal any final decision of the Planning Board under this Ordinance to Superior Court, within 30 days of the date the Planning Board issues a written order of its decision.

**302.14 Public Hearing Requirements:**

**302.14.1** The Planning Board may hold a public hearing on all preliminary and final plan applications to receive public comment and information concerning the application.

**302.14.2** The public hearing notice shall be made as follows:

**302.14.2.1** The Planning Board shall hold a public hearing within 35 days after determining that the application is complete. A notice of the date, time and place of the public hearing shall be published at least two times in a newspaper having general circulation in the municipality, and on the town website. The date of the first publication shall be at least 7 days before the hearing. A notice shall be mailed by first class mail to all property abutters, at least 7 days prior to the public hearing. The Planning Board shall maintain a list of all property abutters and record the date the notice was mailed. Failure of an abutter to receive a notice shall not invalidate the public hearing, nor shall it require the Board to schedule a new public hearing.

**302.14.2.2** The Planning Board may vote to continue the public hearing to receive additional public comment or information concerning the application. The Board is not required to meet the notice requirements listed above for the continued public hearing.

**302.15 Joint Meetings:**

**302.15.1** If any portion of a proposed subdivision crosses municipal boundaries, the Planning Board shall follow the notice, meeting, and review requirements specified in Title 30-A, M.R.S.A., Sections 4401- 4407.

**302.16 Performance Guarantee:**

**302.16.1** A performance guarantee shall be required for all public improvements proposed for the subdivision and shall comply with the applicable requirements in Chapter 7 of the Zoning Ordinance.

**302.17 Inspection Requirements:**

**302.17.1** The Code Enforcement Officer shall be responsible for conducting and/or coordinating all inspections with other municipal officials. The following municipal officials shall perform the following inspections:

**302.17.2** The Road Commissioner shall inspect all roads including roads to be considered for public acceptance and private roads and associated drainage systems.  
(All roads shall also be inspected by a professional engineer as per the road performance standards contained in this Ordinance)

**302.17.3** The Local Plumbing Inspector shall inspect the installation of all subsurface wastewater treatment systems.

**302.17.4** The Code Enforcement Officer shall inspect all erosion control measures, stormwater management features, and all other site features.

**302.17.5** The applicant shall be responsible for scheduling all inspections with the Code Enforcement Officer. The Code Enforcement Officer and all other inspection officials shall keep a record of all inspections and all deficiencies. It shall be the responsibility of the Code Enforcement Officer to notify the applicant in writing that a deficiency exists and the steps

necessary to remedy the situation. The Code Enforcement Officer shall notify the Planning Board and the Selectmen whenever the applicant fails to remedy a deficiency. Upon completion of the subdivision and/or consideration of release of the performance guarantee, all inspection reports shall be made available to the Planning Board and the Selectmen.

### **303 Wood Lot Subdivisions**

**303.1** 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:

**303.1.1** All lots shall be 10 acres or more in size and shall have frontage on a woodlot road or a street.

#### **303.1.2**

No building, either temporary or permanent shall be allowed on any lot in a woodlot subdivision.

#### **303.1.3 A**

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.

**303.1.4** No subsurface sewage disposal system or other form of sewage disposal system may be located on any lot in the subdivision.

**303.2** In the case of approval of a woodlot subdivision, 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 location any lot in this subdivision. The subdivision is approved for the management and harvesting of wood products only."

### **304 Sketch Plan Review:**

#### **304.1 Purpose:**

The purpose of the sketch plan submittal is for the applicant to present general information regarding the proposed subdivision to the Planning Board and to receive the Planning Board's comments prior to the expenditure of substantial sums of money for developing the subdivision plan.

#### **304.2 Procedure:**

**304.2.1** The applicant shall submit a complete sketch plan application to the Planning Board at least 20 days before a scheduled meeting of the Planning Board.

**304.2.2** The applicant shall present the sketch plan application to the Planning Board and make a

verbal presentation regarding the site and the proposed subdivision.

**304.2.3** Following the applicant's presentation, the Planning Board may ask questions and make suggestions to be incorporated into the application.

**304.2.4** The Planning Board shall determine the contour intervals to be shown on the plan.

**304.2.5** The Planning Board shall decide if the proposed subdivision meets the definition of a minor subdivision and if the applicant may submit a final plan for consideration.

**304.2.6** The Planning Board shall decide on the applicant's request to develop the subdivision in accordance with the open space design standards

**304.3 Submissions:**

**304.3.1** The sketch plan shall show in simple sketch form the proposed layout of roads, lots, buildings, and other features in relation to existing site conditions. The sketch plan does not have to be an engineered plan and may be a freehanded penciled sketch.

**304.3.2** The sketch plan shall be submitted on the application forms provided by the Planning Board and include the following:

**304.3.2.1** A copy of the Tax Assessors map of the site and surrounding area.

**304.3.2.2** A copy of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.

**305 Preliminary Plan Review:**

**305.1 Purpose:**

The purpose of the preliminary plan review is to review the proposed subdivision design for compliance with the review criteria and to determine if additional studies or professional review is required before the final version of the subdivision plan is developed.

**305.2 Procedure:**

**305.2.1** The applicant shall, at least 20 days prior to a scheduled meeting of the Planning Board, submit a complete preliminary plan application to the Town Manager. The applicant shall be issued a dated receipt and the preliminary plan application shall be placed on the Planning Board's agenda to be reviewed for a complete application.

**305.2.2** The application shall consist of 9 complete copies including all maps and related attachments. The Planning Board shall receive 7 copies; the Code Enforcement Officer shall receive one copy; and, one shall be placed in the Town Office for public review.

**305.2.3** As soon as possible after the receipt of the preliminary plan, the Town shall notify by

first class mail all abutters to the proposed subdivision that an application for a subdivision has been submitted to the Planning Board, specifying the location of the proposed subdivision and including a general description of the project. The notice shall also indicate that a copy of the application is available for public review at the Town Office. The Planning Board shall maintain a list of all abutters notified by first class mail, specifying the date the notice was mailed.

**305.2.4** Within 35 days of the receipt of the preliminary plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the board shall notify the applicant of the specific material needed to complete the application.

**305.2.5** The Planning Board shall hold a public hearing or meeting within 35 days of determining that it has received a complete application.

**305.2.6** Within 35 days of the public hearing or meeting, or within another time as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application. The Planning Board may vote to delay its review if it cannot conduct a site visit due to snow cover.

**305.2.7** Upon approval of the preliminary plan, the applicant is eligible to submit a final plan to the Planning Board for consideration. The approval of the preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to preparation of the final plan. The final plan shall be submitted for consideration upon fulfillment of the requirements of this Ordinance and conditions of preliminary approval, if any.

### **305.3 Preliminary Plan Submissions:**

**305.3.1** The applicant is responsible for supplying all the necessary information to show that the proposed subdivision complies with the review criteria, and requirements and performance standards contained in this Ordinance. The preliminary plan submissions shall consist of the following:

- a. A receipt from the Town indicating that the application fee has been paid.
- b. A preliminary plan application form and all required attachments and maps.
- c. Waiver request form, if applicable.
- d. A location map, drawn at an appropriate scale to show the relationship of the proposed subdivision to adjacent properties. The map shall show the following:
  - (1) Existing subdivisions in the proximity of the proposed subdivision.
  - (2) Locations and names of existing and proposed roads.
  - (3) Boundaries and designations of all shoreland zoning and other land use districts.
  - (4) An outline of the proposed subdivision and any remaining portion of the owner's property if not included in the subdivision proposal.

- e. The following general information:
  - (1) Name and address of the applicant and applicant's agent.
  - (2) The applicant shall provide proof of right, title or interest in the property.
  - (3) A copy of all existing and proposed, deed restrictions, rights-of-way, or other encumbrances affecting the property.
  - (4) The book and page and tax map and lot information of the property.
  - (5) The names of all property owners abutting the property.
  - (6) Acreage of the proposed subdivision, acreage of roads, and acreage of any land not included in the subdivision.
- f. A subdivision plan consisting of one or more maps drawn to a scale of not more than 100 feet to the inch. The plan shall show the following:
  - (1) Name of the subdivision.
  - (2) Number of lots.
  - (3) Date, north point, graphic scale.
  - (4) Proposed lot lines with dimensions.
  - (5) A survey of the perimeter of the tract, giving complete descriptive data by bearing and distances, made and certified by a Registered Land Surveyor. The corner of the tract shall be located on the ground and marked by permanent markers. The plan shall indicate the type of permanent marker proposed to be set or found at each lot corner.
  - (6) Contour intervals as specified by the Planning Board.
  - (7) The location of all wetlands regardless of size as determined by an onsite wetland delineation.
  - (7a) The location of all farmland located within the proposed subdivision.
  - (8) The location of all rivers, streams, brooks and ponds within or adjacent to the subdivision.
  - (9) The location of all slopes in excess of 10% slope.
  - (10) The number of acres within the subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing features.
  - (11) The location of any significant sand and gravel aquifers,
  - (12) The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the Town's most recent FIRM Map.
  - (13) The boundaries of all shoreland zoning districts.
  - (14) The location and boundaries of any significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife.
  - (15) The location of any site or structure listed on the National Register of Historic Places or any archeological site identified by the State Historic Preservation Commission.
  - (16) The location of all scenic areas and rare and endangered plants as identified by the Town of Eddington.
  - (17) The location of all subsurface wastewater disposal system test pits or borings and test data and appropriate documentation.
  - (18) The location of all existing and proposed wells and appropriate documentation.
  - (19) All erosion control features proposed for the site.
  - (20) All stormwater control features proposed for the site.
  - (21) All parcels of land proposed to be owned or held in common or joint ownership by the subdivision or individual lot owners. All land proposed to be offered for public

- acceptance to the Town. Homeownership association agreement covering all improvements to be owned privately.
- (22) Phosphorus control measures, if the subdivision is located within the direct watershed of a great pond.
  - (23) Road plans and specifications, and appropriate documentation.
  - (24) Traffic access data for the site including an estimate of the amount of vehicular traffic to be generated on a daily basis.
  - (25) The type and location of any proposed fire control features, letter from the Fire Chief, and any other appropriate documentation.
- g. A statement indicating how the solid waste from the subdivision will be handled.
  - h. Documentation indicating that the applicant has the financial and technical capacity to meet the requirements of this Ordinance.
  - i. Any other data necessary in order to meet the requirements of this Ordinance.
  - j. Indicate how all roads and other public improvements will be maintained until the improvements are dedicated to the Town or for private roads and improvements, how they will maintain them over their lifespan.
  - k. Documentation from the Department of Transportation indicating that any proposed driveways or entrances onto state or state aid highways conform to MRSA Title 23, section 704.
  - l. Applicable documentation from the Maine Forest Service or a licensed forester indicating that the Review Criteria 201.20 has been met.

### **306 Final Plan Review:**

#### **306.1 Purpose:**

The purpose of the final plan review is for the Planning Board to make sure all the changes required after the preliminary review have been completed and the proposed subdivision meets all the review criteria contain in this Ordinance.

#### **306.2 Procedure:**

**306.2.1** The applicant shall, at least 20 days prior to a scheduled meeting of the Planning Board, submit a complete final plan application to the Town Manager. The applicant shall be issued a dated receipt and the final plan application shall be placed on the Planning Board's agenda to review for a complete application.

**306.2.2** The applicant shall submit 9 complete copies of the final plan application to the Planning Board. The application shall also submit 2 stable-based transparencies and 3 paper copies of the subdivision plan for signature and filing to the register of deeds. The Planning Board shall receive 1 original transparency, and two paper copies.

**306.2.3** Within 35 days of the receipt of the final plan application, the Planning Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific material needed to complete the application.

**306.2.4** The Planning Board shall schedule a public hearing or a meeting to review the final plan within 35 days of determining that it has received a complete application.

**306.2.5** Within 35 days of the public hearing or meeting, or within another time as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application.

**306.2.6** Upon voting to approve the final plan, the Planning Board shall sign the 2 stable -based transparencies. The Planning Board shall retain one copy and the other shall be provided to the applicant. The applicant shall file the approved final subdivision plan with the Register of Deeds, within 90 days of the date upon which the plan is approved. Failure to file the plan with the Register of Deeds, within 90 days, shall make the plan null and void. Final Plans not filed in the appropriate time shall be re-submitted to the Board according to the requirements of Section 7 of this Ordinance.

The Applicant shall provide the Town proof that the Subdivision Plan was filed with the Register of Deeds, and shall submit to the Tax Assessors a copy of the subdivision plan showing the proposed lots, which corresponds to the scale of the Town Tax map showing the subdivision.

**306.3 Final Plan Submissions:**

**306.3.1** The applicant is responsible for supplying all the necessary information to show that the proposed subdivision complies with the review criteria and requirements and performance standards contained in this Ordinance. The final plan submissions shall consist of the following:

- a. A receipt from the Town indicating that the application fee has been paid.
- b. A final plan application form and all required attachments and maps.
- c. All the submission materials required for a preliminary plan.
- d. All conditions and modifications approved by the Planning Board for the preliminary plan shall be contained on the final plan.
- e. All waivers approved by the Planning Board shall be shown on the final plan.
- f. All additional studies and/or materials required by the Planning Board, as applicable.
- g. A signature block shall be provided on the final plan.
- h. A performance guarantee, if applicable.
- i. The location and type of all permanent markers set at all lot corners.
- j. If the subdivision contains any private roads, the plan shall contain a statement as follows: The subdivision roads are designed, as private roads are not eligible for acceptance by the Town of Eddington unless the road is improved to meet the appropriate standards for road acceptance.
- k. Written copies of any documents of land dedication, and written evidence that the Board of Selectmen is satisfied with the legal sufficiency of any documents accomplishing such land dedication.
- l. Any conditions placed on the final plan by the Planning Board shall be clearly listed on the plan. Planning Board imposed, conditions shall be listed separately from any conditions or restrictions placed on the subdivision by the applicant.
- m. Proof that all other applicable State and Federal permits have been obtained.

## **Chapter 4**

### **Performance Standards:**

The performance standards contained in this section shall apply to all subdivision proposals in the Town of Eddington.

#### **401 General Lot Requirements:**

**401.1.** Subdivisions shall conform to the Town's minimum lot requirements. Subdivisions designed according to the Open Space Design Option may modify the minimum lot requirements according to the standards in the Open Space performance standards.

**401.2** Land in the following areas shall not be used to calculate the required minimum lot size:

**401.2.1** Rivers; streams; brooks; proposed stormwater drainage features; resource protection areas as defined in the Town's Shoreland Zoning Ordinance; areas within the floodway as defined in the Town's Floodplain Management Ordinance; and, areas within public and private rights-or way.

**401.2.2** Wetlands, except that lots 2 acres or larger may contain no more than 33% of their area in wetlands.

#### **402 Monuments:**

**402.1** Monumentation as required by the Maine Board of Registration of Land Surveyors shall be installed at the following:

**402.1.1** At both sides of all road intersections and points of curvature on both sides of the road, but no farther than 750 feet apart along road lines without intersections or curves.

**402.1.2** At all other subdivision boundary corners and angle points plus lot boundary corners and angle points.

**402.1.3** If lot lines are not 90 degrees to the road, then monuments shall also be set 100 feet from the road at each sideline.

#### **403 Environmental Standards:**

All subdivisions shall conform to the environmental standards contained in the Chapter 8 of the Zoning Ordinance.

#### **404 Fire Protection:**

**404.1** The subdivision shall be designed to provide the Town of Eddington Fire Department unrestricted access to all developed areas within the subdivision. An adequate supply of water for fire suppression shall be available to serve the development. The applicant shall review the proposed subdivision with the Fire Chief and shall obtain a written statement from the Fire Chief approving the plans fire protection measures. This statement shall be submitted with the preliminary plan application.

**404.2** The Fire Chief in making his/her determination that adequate provisions are made for fire

protection shall consider the following:

**404.2.1** The road is adequate for the passage of fire equipment.

**404.2.2** An adequate water supply is available near or within the subdivision to serve the density of the development.

**404.3** The Fire Chief shall approve the fire protection measures proposed for the subdivision or shall make specific recommendations to improve the fire protection measures. In making recommendations, the Fire Chief may recommend the installation of fire ponds, dry hydrants or other similar features.

**405 Ground Water:**

**405.1** Any development proposed within a Sand and Gravel Aquifer as identified by the Town of Eddington shall be designed and constructed according to a plan which takes into account the impact of the development upon the aquifer.

**405.2** The Planning Board may require the applicant to provide a plan developed by a hydrologist which shows that the proposed development will not have an adverse impact upon the aquifer. The Planning Board, in making the determination that a plan is required, shall consider the density of the development, and existing conditions or problems within the area.

**406 Financial and Technical Capacity:**

**406.1** The applicant shall submit evidence that he/she has adequate financial and technical capacity to design and construct the development in accordance with all applicable local, state and federal laws and regulations. Evidence of adequate financial and technical capacity shall consist of the following:

**406.1.1** A list of all technical and professional staff involved with the proposal and preparation of the application including their qualifications and experience with projects of similar size and scale.

**406.1.2** A list of all persons with inspection and oversight responsibilities for the development and if available, the persons selected to construct the project, including their qualifications and experience with projects of similar size and scale.

**406.1.3** A letter from a financial institution such as a bank or other lending institution that states that the applicant has the necessary funds available or a loan commitment from this institution to complete the proposed development within the time period specified by the applicant.

**407 Conformity with All Other Applicable Local Ordinances:**

**407.1** The applicant shall show that the subdivision meets all other applicable local ordinances including Zoning Ordinance Shoreland Zoning, and Floodplain Management.

**408 Road and Traffic Access Standards:**

**408.1** All roads shall be comply with the applicable requirements of Chapter 9 Traffic Access Roads contained in the Town of Eddington Zoning Ordinance .and the following requirements.

**408.2** The Planning Board shall review the type of road selected by the applicant to ensure that the road will be capable of accommodating future expansion of the subdivision and development within adjoining lands. The Planning Board shall consider the following in its review:

- (1) Particular conditions of the site do not allow for future expansion.
- (2) A phase build-out of the subdivision is proposed.
- (3) The applicant owns or has retained land adjacent to the subdivision with future development potential.
- (4) Provisions to allow future road connections to adjoining land parcels.

**408.3** The Planning Board may after reviewing the particular site conditions; require that a road be constructed to a road category that is more suitable to the potential build-out of the site and that provision be included to reserve right-of-ways to connect adjoining land parcels.

**408.4** The Planning Board may require that a proposed subdivision road connect to an adjoining existing or proposed subdivision road. In making this decision, the Planning board shall consider the following:

- (1) Whether the road is a public or private road and how will road maintenance be impacted.
- (2) Whether the road connection will enhance or improve the traffic flow within both subdivisions.
- (3) Whether the road connection will enhance or improve pedestrian and/or recreation access.

## **409 Recreational Access Standards**

**409.1** Outdoor recreational access is an important feature of Eddington's rural heritage and all subdivision proposals consisting of more than 4 lots shall provide for the continued enhancement and development of a variety of recreational opportunities. Since new subdivisions and the associated housing and other development they foster can compete with existing open space, scenic and other attributes of a rural community, it shall be the responsibility of each new subdivision to provide for outdoor recreation. A recreation plan designed to serve the subdivision shall be developed according to the requirements listed below.

**409.2** Since subdivision proposals vary in size, density, design, and location, a variety of options shall be offered for the development of the recreation plan. The subdivision shall be deemed to meet the recreation requirement if they conform to one of the following:

**409.2.1** A minimum of 10% of the land within the subdivision is dedicated for open space. Suitable easements and/or deed restrictions shall be proposed to preserve the land from development. Land area as defined in Section 401.2 shall not be used to calculate the required 10% of open space.

**409.2.2** A parcel of land consisting of at least 2 acres and having a minimum of 200 feet of shore frontage on a great pond is dedicated for recreation. The parcel shall be suitable for at least one

of the following: boat access or swimming. Trails, easements, or other instruments shall be provided so that residents can access the parcel.

**409.2.3** A multi-purpose trail system which can reasonably be accessed by each lot is constructed. The trail should be designed to accommodate walkers, cross-country skiing and snowmobiles. The trail must provide a link to existing trails or snowmobile routes.

**409.2.4** An active recreation area consisting of at least two of the following:

- Playground for children
- Baseball field
- Tennis Court (minimum of 2 courts)
- Full size basketball court
- Multi-purpose field

**409.2.5** Combination of recreation options. The applicant may propose to offer a combination of recreational sites consisting of a portion of some of the options listed above. The Planning Board shall review this proposal to ensure that the intent of this section is met.

**409.3** Land for recreational sites may be offered to the Town for public acceptance or may be owned in common by lot owners. The applicant may also propose to dedicate the recreation areas to a third party that is incorporated for maintaining land for conservation and preservation.

**409.4** All land proposed for recreation shall be protected by a suitable deed restriction that prohibits development and preserves the land for future inhabitants.

**409.5** All recreational areas to be owned in common shall include a maintenance plan and mandatory association agreement in each deed of the subdivision lots.

## **410 Agricultural, Forest and Rural Resources**

**410.1** Whenever a proposed subdivision is located adjacent to an active farm, pasture field, a woodlot listed under Tree Growth, a productive forest site, or an excavation site operation suitable provisions shall be incorporated in the subdivision proposal to minimize future conflicts between residential sites and agricultural, forestry or borrow operations.

**410.2** All farmland within the proposed subdivision shall be mapped on the subdivision plan.

**410.3** Provisions to reduce conflicts between residential and activities of a working rural landscape shall be proposed based upon the size, density and site conditions of the particular subdivision. Some possible options include:

**410.3.1** A mandatory structure set back of 100 feet from the farm, forest, or excavation site operation.

**410.3.2** A vegetative buffer along property lines.

**410.3.3** Location of homes away from the farm, forest, or excavation site operation.

**410.3.4** A disclosure notice, included in the deed for each lot, to inform the new landowner that agricultural, forest or excavation activities generate noise, dust and odors.

## **411 Rural Design and Landscape Standards**

**411.1** Each subdivision proposal consisting of more than 4 lots shall include a landscape plan which shows how the lots, building sites, structures and roads preserve the existing rural character of the community. The plan shall incorporate the following standards into the overall development of the subdivision:

**411.1.1** Building sites shall be oriented to respect to scenic vistas, natural landscape features, topography, and natural drainage areas.

**411.1.2** Road and lot layout shall be adapted to the existing topography.

**411.1.3** Existing trails shall be preserved.

**411.1.4** Existing vegetation along front, side and rear lot property lines shall be preserved.

**411.1.5** Lots shall be designed to enhance the privacy and rural atmosphere of the development.

**411.1.6** Trees located along the roads shall be preserved to the greatest extent possible in order to maintain a rural roadscape.

**411.1.7** Existing vegetation along all streams, ponds, wetlands shall be preserved.

## **412 Maintenance of Roads and Public Improvements and Homeowner Associations**

**412.1** All roads and other public improvements that are not dedicated or accepted by the Town shall be maintained according to a homeowner association agreement. A legal agreement creating a homeowner association indicating how the infrastructure will be maintained shall be submitted to the Planning Board with the preliminary plan. The homeowners association shall include a mandatory membership requirement for all subdivision lot owners and shall include a capital improvements budget to plan for future infrastructure upgrade. The Planning Board shall review the Homeowners association agreement maintenance plan to ensure that sufficient provisions have been incorporated to maintain all improvements for the applicable period. The homeowner association agreement shall be included or legally referenced on all property deeds and on the final subdivision plan.

**412.2** During such time prior to the actual acceptance by the Town of Eddington of any road or other public improvement, a homeowners association agreement plan as required in 412.1 shall be developed and submitted to the Planning Board for review and approval. The developer or the subdivision owners shall be responsible for the maintenance of roads and all other public

improvements prior to acceptance by the Town of Eddington.

**412.2.1** If the road or other public improvement is not accepted by the Town of Eddington, the homeowners association agreement shall remain in effect.

### **413 Stormwater Improvements**

**413.1** All stormwater control features not directly associated with road drainage shall not be eligible for public acceptance.

**413.2** The homeowners association agreement shall include provisions for the repair and maintenance of all stormwater control feature. .

### **414 Subdivision Public Improvement Completion Deadline**

**414.1** All public improvements which are required to have a performance guarantee shall be completed within 2 years of the date of the final plan approval by the Planning Board. The applicant may submit a subdivision revision to the Planning Board to extend the deadline for an additional two years. The terms of the performance guarantee shall also be extended as necessary. Each subdivision is eligible for only one extension period.

**414.2** Any subdivision which does not complete the required public improvements during the prescribed time period shall be required to submit a new subdivision application to continue any development at the site.

**414.3** The terms of the subdivision public improvement completion deadline shall be included on the subdivision plan filed at the register of deeds.

## **Chapter 5** **Enforcement**

**501.1** It shall be the responsibility of the Code Enforcement Officer to enforce the provisions of this Ordinance.

**501.2** No plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Planning Board in accordance with this Ordinance.

**501.3** A person shall not convey, offer to convey any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.

**501.4** A person shall not sell, lease, offer or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.

**501.5** No public utility, water district, sanitary district, or any utility company of any kind shall serve any lot in a subdivision for which a final plan has not been approved by the Planning

Board.

**501.6** Development of a subdivision without Planning Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land, or lots, or construction of buildings, which require a plan approved as provided in this Ordinance and recorded in the Registry of Deeds.

**501.7** No lot in a subdivision may be sold, leased or otherwise conveyed before the road upon which the lot fronts is completed in accordance with this Ordinance up to and including the entire frontage of the lot.

**501.8** Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A, M.R.S.A. ss.4452.

## **Chapter 6** **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.

**Farmland:** Farmland shall include land included under the farmland property tax program, land cultivated for crops, including hay, and livestock and animal pasture.

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

**Private Road:** See the Town of Eddington Zoning Ordinance.

**Property Abutter or Abutter:** Any landowner within 500 feet as measured from the property line of the proposed subdivision including any land shown as reserved land on the subdivision plan.

**Public Road** Any road that has been officially accepted by the Town of Eddington as a public way.

**Public Way:** See the Town of Eddington Zoning Ordinance

**Public Improvement** The term shall include all roads, fire protection structures and ponds, any structure or land proposed to be dedicated to the town, any land or structure which is offered as an easement to the town, and all storm drainage structures which are designed to allow water to flow outside the property of the subdivision.

**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:** A road 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:** As defined in Title 30-A MRSA Section 4401 as most recently amended.

**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.

**Wetland** A swamp, marsh, bog, vernal pool or similar area which are inundated or saturated by surface or ground water at a frequency and a duration sufficient to support and which under normal circumstances do support a prevalence of wetland vegetation typically adapted for life in saturated soils. This is also meant to include forested wetlands.