


# TOWN OF LITCHFIELD

## SUBDIVISION ORDINANCE

EFFECTIVE DATE: JUNE 17, 2000  
REVISED JUNE 12, 2004  
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Effective on June 15th, 2024

Certified by (signature): 

Certified by (printed name): Kelly D. Weissenfels

Title: Town Clerk

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## Section 1      General

- A. Title:  
This Ordinance shall be known as the Town of Litchfield Subdivision Ordinance and will be referred to as “This Ordinance”.
- B. Authority:  
This Ordinance has been prepared in accordance with the provisions of Title 30-A MRSA § 4403.
- C. 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, MRSA § 4404.
  - To preserve and enhance the rural character of the community.
  - To meet the goals and conform to the policies of the Litchfield Comprehensive Plan.
  - To assure the safety, health, and welfare of the people of the Town of Litchfield.
  - To provide adequate recreational opportunities.
  - To protect the natural and cultural resources of the Town of Litchfield.
  - To assure that a minimal level of services and facilities are available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures.
  - To promote the development of an economically sound and stable community.
  - To minimize the potential impact from new subdivision on neighboring properties and on the municipality.
- D. Applicability:  
The provisions of this Ordinance shall apply to all development considered to be a subdivision as defined by Title 30-A MRSA § 4401 and this Ordinance.
- E. Effective Date:  
The effective date of this Ordinance shall be the date of the adoption by the Town of Litchfield on: June 17, 2000.
- F. Conflicts with other Ordinances:  
Whenever a provision of this Ordinance conflicts with or is inconsistent with another provision of this Ordinance or any other ordinance, regulation or statute, the more restrictive provision shall control.
- G. Validity and Severability:  
Should any section or provision of this Ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of the Ordinance.
- H. Availability:  
A certified copy of this Ordinance shall be filed 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 to be charged to the person making the request. Notice of availability of this Ordinance shall be posted in the Town Office.
- I. Application Forms:  
The Town of Litchfield Planning Board shall develop application forms to be used by all applicants seeking subdivision approval.
- J. Application Fee:  
All applications for subdivision approval shall be accompanied by the fees as established by the Board of Selectman.

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All fees are non-refundable and shall be paid to the Town of Litchfield upon filing the appropriate subdivision application.

K. Amendments:

Amendments to this Ordinance may be initiated by a majority vote by the Board of Selectmen, Planning Board, or by written petition by a number of voters equal to at least 10% of the number of votes cast in the municipality in the last gubernatorial election.

An amendment to this Ordinance may only be adopted by a majority vote of a Town Meeting. The Planning Board shall conduct a public hearing on any proposed amendments prior to the Town Meeting.

## Section 2 Open Space Subdivisions

A. Purpose:

The purposes of this section are:

1. To provide for efficient use of the land and the preservation of open space, farmland, and rural character;
2. To provide for development in harmony with the natural features of the land that is consistent with historic land use patterns of village-like areas where residences are grouped, surrounded by areas of open space used for agriculture, forestry, recreation and similar purposes;
3. To protect high value natural areas;
4. To reduce the impacts on water resources by minimizing land disturbance and creation of impervious surfaces and stormwater runoff;
5. To encourage efficient use of infrastructure.

B. Applicability:

The provisions of Section (2) shall apply to all subdivisions.

C. District Requirements:

1. Village District

a. Density of Development

The overall density of the development shall not exceed a density of 1 dwelling unit per acre in the Village District, except in an Affordable Housing Development where the density of development shall not exceed 1 dwelling unit per 17,424 square feet (1 dwelling unit per 0.4 acres). The density of the development shall be based solely on land deemed suitable for development.

b. Minimum Lot Size in Subdivision

No lot may be less than 20,000 square feet.

c. Protected Open Space

At a minimum, 5 percent of developable land must be set aside as protected open space, plus land unsuitable for development to the greatest extent possible (See definition.)

d. Design Criteria

The area of land reserved for open space within the subdivision shall be shaped and lots located according to the following objectives to the greatest extent feasible in prioritized order:

## Section 2 (continued)

1. Areas Unsuitable for Development (See definition.) included as contiguous protected open space;
2. Lots on or with access to suitable soils for subsurface disposal;
3. At least 75% of protected open space is contiguous and is linked to nearby open space on other properties;
4. Essential habitat identified on State Beginning with Habitat map in protected open space;
5. Existing trails and other recreational areas shall be preserved;
6. Preservation of cultural features of the village landscape, including stone walls, tree lines, significant trees and when feasible historic homes and outbuildings;
7. Lots where buildings will not interfere with solar access of other properties;
8. Lots where greatest number of units could be designed to take maximum advantage of solar heating opportunities;
9. Stream corridors and wildlife travel corridors with respective undisturbed vegetative buffers of 75 feet.

2. Planned Development District

a. Density of Development

The overall density of the development shall not exceed a density of 1 dwelling unit per acre in the Planned Development district, except in an Affordable Housing Development where the density of development shall not exceed 1 dwelling unit per 17,424 square feet (1 dwelling unit per 0.4 acres). The density of the development shall be based solely on land deemed suitable for development.

b. Minimum Lot Size in Subdivision

No lot shall be less than 20,000 square feet.

c. Protected Open Space

At a minimum, 20 percent of developable land must be set aside as protected open space, plus land unsuitable for development to the greatest extent possible (See definition.)

d. Design Criteria

The area of land reserved for open space within the subdivision shall be shaped and lots located according to the following objectives to the greatest extent feasible in prioritized order:

1. Residential lots and protected open space no closer than 300 feet from a public road right of way, (ROW) allowing commercial development within 300 feet of a public ROW subject to applicable setbacks and other requirements.
2. Areas Unsuitable for Development (See definition.) included as contiguous protected open space;
3. Lots on or with access to suitable soils for subsurface disposal;
4. Essential habitat and high value plant and animal habitat identified on the State Habitat map in protected open space;
5. At least 75% of protected open space is contiguous and is linked to nearby open space on other properties;
6. Existing trails or other recreational areas shall be preserved;
7. Preservation of cultural features of the landscape, including stone walls, tree lines, significant trees and when feasible historic homes and outbuildings;
8. Lots where buildings will not interfere with solar access of other properties;
9. Lots where greatest number of units could be designed to take maximum advantage of solar heating opportunities;

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10. Lots or if that's not possible, houses within woodlands or if that's not possible along far edges of open fields preferably adjacent to woodlands (to enable new construction to be absorbed by natural landscape features);
11. Lots where scenic views from public roads are least likely to be blocked or interrupted.
12. Stream corridors and wildlife travel corridors with respective undisturbed vegetative buffers of 75 feet.

3. Rural District

a. Density of Development

The overall density of the development shall not exceed a density of 1 dwelling unit per 2 acres in the Rural District. The density of the development shall be based solely on land deemed suitable for development.

b. Minimum Lot Size in Subdivision

No lot shall be less than 20,000 square feet.

c. Protected Open Space

At a minimum, 50 percent of developable land must be set aside as protected open space, plus land unsuitable for development to the greatest extent possible (See definition.)

d. Design Criteria

The area of land reserved for open space within the subdivision shall be shaped and lots located according to the following objectives to the greatest extent feasible in prioritized order:

1. Areas Unsuitable for Development (See definition.) included in protected open space;
2. Lots on or with access to suitable soils for subsurface disposal;
3. Lots or if that's not possible, houses within woodlands or if that's not possible along far edges of open fields preferably adjacent to woodlands (to enable new construction to be absorbed by natural landscape features);
4. At least 75% of protected open space is contiguous and is linked to nearby open space on other properties;
5. Essential habitat and high value plant and animal habitat identified on State Habitat map in protected open space;
6. Contiguous, usable area for agriculture or sustainable wood lot production in protected open space
7. Existing trails or other passive recreational areas shall be preserved;
8. Lots where scenic views from public roads are least likely to be blocked or interrupted;
9. Farmland and land classified as prime agricultural soils shall be in protected open space;
10. Preservation of cultural features of the rural landscape, including significant trees, stonewalls, tree lines, and when feasible historic farmhouses and outbuildings. Significant trees, tree lines, and stone walls and other important natural features not included within designated open space should be incorporated along the edges of individual lots or along a path or road, rather than transected by lot lines or a roadway.
11. Stream corridors and wildlife travel corridors with respective undisturbed vegetative buffers of 100 feet and 300 feet width in protected open space

4. Shoreland District

a. Density of Development

The overall density of the development shall not exceed a density of 1 dwelling unit per 1 acres in the Shoreland District. The density of the development shall be based solely on land deemed suitable for development.

b. Minimum Lot Size in Subdivision

1. No lot shall be less than 20,000 square feet.
2. No building envelope shall be located closer than 200 feet from the Normal High Waterline

c. Protected Open Space

1. At a minimum, 50 percent of developable land must be set aside as protected open space, plus land unsuitable for development to the greatest extent possible (See definition.)

d. Design Criteria

The area of land reserved for open space within the subdivision shall be shaped and lots located according to the following objectives to the greatest extent feasible in prioritized order:

1. Areas Unsuitable for Development (See definition.) included in protected open space;
2. Lots on or with access to suitable soils for subsurface disposal;
3. Lots or if that's not possible, houses within woodlands or if that's not possible along far edges of open fields preferably adjacent to woodlands (to enable new construction to be absorbed by natural landscape features);
4. At least 75% of protected open space is contiguous and is linked to nearby open space on other properties;
5. Essential habitat and high value plant and animal habitat identified on State with Habitat map in protected open space;
6. Existing trails or other passive recreational areas shall be preserved;
7. Lots where scenic views from public roads are least likely to be blocked or interrupted;
8. Preservation of cultural features of the rural landscape, including significant trees, stone walls, tree lines, and when feasible historic farmhouses and outbuildings. Significant trees, tree lines, and stone walls and other important natural features not included within designated open space should be incorporated along the edges of individual lots or along a path or road, rather than transected by lot lines or a roadway.
9. Stream corridors and wildlife travel corridors with respective undisturbed vegetative buffers of 100 feet width in protected open space

D. Other Standards

1. Open Space Uses.

Limited to uses for passive recreation, or other passive outdoor activities, agriculture, forest management or individual or group septic systems, and for preserving the natural features of the site except as noted in Section (D)(4) Potential uses (e.g., farming) may be by the subdivider, owners or residents, or a lessee. The use of any open space may be further limited or controlled at the time of final subdivision approval as necessary to protect adjacent properties.

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2. Homeowner Association.

If a homeowners' association (association) is to be formed it shall be incorporated by the developer prior to final subdivision approval. Covenants for mandatory membership in the association shall be approved by the Planning Board and included in the deed for each lot or unit. Draft by-laws of the proposed lot owners' association specifying the responsibilities and authority of the association, the operating procedures of the association and providing for proper capitalization of the association to cover the costs of major repairs, maintenance and replacement of common facilities shall also be subject to Planning Board approval. The association's documents shall specify that:

- a. All facilities dedicated to the common use and/or ownership by the development's residents shall be the responsibility of association.
- b. The association shall levy annual charges against all property owners to defray the expenses, if any, connected with maintenance of the common open spaces and facilities.
- c. The association shall have the power to place a lien on the property of members who fail to pay dues or assessments.
- d. The developer shall maintain control of designated open space and facilities and be responsible for their maintenance until at least 51% of the development lots or units have been conveyed, with evidence of such completion and sales submitted to and approved by the Planning Board.

3. Open Space Ownership.

Owned, preserved, and maintained as required by this section by any of the following mechanisms or combinations thereof:

- a. Dedication of open space to the Town or a suitable land trust, if either is willing to accept the dedication.
- b. Dedication of development rights of open space to a suitable land trust with ownership by a private individual or homeowners' association. (In the form of a conservation easement)
- c. Ownership of the open space by a homeowners' association which assumes full responsibility for its maintenance with open space protection deed restrictions enforceable by any landowner in the subdivision, any owner of separate land parcels abutting the open space, or the municipality
- d. Ownership by a private individual with open space protection deed restrictions enforceable by any

land owner within the subdivision, any owner of separate land parcels abutting the open space, or the municipality. This option may apply only if open space is part of an existing farm, working or not, if there is a future intent to farm by the owner and no land trust is willing to accept dedication of development rights of the open space.

4. Active Recreation.

Active recreation requires equipment and takes place at prescribed sites and includes tennis and other

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court games, swimming, baseball and other field sports and playground activities. Active recreation shall be limited to one site, can encompass no more than one acre of the designated open space in rural districts. Any building associated with the active recreation site is limited to 400 square feet. When

open space subdivisions are located in a Village or Planned Development District up to 25% of the designated open space up to a maximum of 3 acres can be used for active recreation including ball fields and total building footprint is limited to 1000 square feet.

The developer shall maintain control of designated open spaces and facilities and be responsible for their maintenance until at least 51% of the development lots or units have been conveyed, with evidence of such completion and sales submitted to and approved by the Planning Board.

### Section 3      Review Criteria

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

- A. 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, and,
  - The applicable state and local health and water resources rules and regulations.
- B. The proposed subdivision has sufficient water available for the reasonable needs of the subdivision.
- C. The proposed subdivision will not cause an unreasonable burden on an existing water supply.
- D. The proposed subdivision will not cause unreasonable soil erosion, unmitigated stormwater runoff, or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.
- E. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe intersections or other conditions with respect to the use of the highways or public roads existing or proposed.
- F. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are used.
- G. The proposed subdivision will not cause an unreasonable burden on the town's ability to dispose of solid waste, if Town services are used.
- H. 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.
- I. The proposed subdivision conforms with 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.
- J. The subdivider has adequate financial and technical capacity to meet all the Review Criteria and the standards and requirements contained in this Ordinance.

### Section 3 (continued)

- K. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, Chapter 3, Subchapter 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.
- L. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.
- M. 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.
- N. All fresh water wetlands and vernal pools within the proposed subdivision have been identified and delineated 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.
- O. 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. 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 Title 38, Section 480-B subsection 9, none of the lots created within the subdivision shall have a lot depth to shore frontage ratio greater than 5 to 1.
- P. The proposed subdivision will provide for adequate storm water management.
- Q. The long term cumulative effects of the proposed subdivision will not increase a great pond's phosphorus concentration during the construction phase and life of the proposed subdivision.

#### Section 4 Administration and General Procedures

##### A. Administration:

1. The Planning Board shall administer this Ordinance and review all subdivision applications according to the applicable review criteria and standards.
2. The Planning Board shall provide the Code Enforcement Officer a copy of its decision on a subdivision application including all application materials.

##### B. Decisions:

1. The Planning Board shall make the final determination as to whether the subdivision application is complete when it has determined it has received all the submittal information it needs to make a decision before it makes a final decision on the application.
2. After review of a complete application the Planning Board shall determine whether or not the

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application meets the Review Criteria contained in Section (3) of this Ordinance.

3. 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.
4. 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. Each condition approved by the Planning Board shall be listed along with the reasons for these conditions in the Planning Board's decision. Each condition shall also be listed on the final subdivision plan.
5. Each waiver approved by the Planning Board shall be listed along with the reasons for these waivers in the Planning Board's decision. Each waiver shall also be listed on the final subdivision plan.

C. Burden of Proof:

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.

D. Additional Studies:

1. The Planning Board may require the applicant, to perform additional studies or pay for the services of a consultant to review the entire or portions of the subdivision application. The cost to perform additional studies or pay for the services of a consultant shall be borne by the applicant. The Planning Board may 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 in order to meet expenses.

E. Rights Not Vested:

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 Title 1 MRS § 302. The formal review process shall begin upon written notification to the applicant that a complete application has been received.

F. Site Inspection:

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 seven days prior to the site inspection. Minutes will be taken for the on-site inspection.
2. The purpose of the site inspection is for the Planning Board to obtain knowledge about the site and surrounding area. The Planning Board may discuss the project and give feedback to the applicant regarding design criteria

Section 4 (continued)

G. Waivers:

1. The Planning Board may vote to waive portions of submission information if the Board finds that the information is not required to determine compliance with the standards and review criteria.
2. The Planning Board may vote to waive one or more of the performance standards if the applicant has proposed an alternative design that will satisfy the review criteria equally or better than one or more performance standards.
3. The Planning Board may vote to waive one or more of the performance standards due to the size of the project, circumstances of the site or unique features of the proposals provided that the review criteria are satisfied.
4. The applicant shall submit information and materials that support the waiver request with the application. The burden of proof shall be on the applicant to demonstrate that the review criteria have been satisfied.
5. The Planning Board shall review any written waiver 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 such time that the applicant provides any information necessary as a result 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.

H. Subdivision Review Process:

All subdivision applicants shall be required to follow a three-tier review process. Review of each tier must be completed prior to proceeding to the subsequent tier. The tiers in order of review are: Pre-Application Meeting; Preliminary Plan Review and Final Plan Review.

I. Revisions to Approved Plans

1. An application for a revision to a previously approved plan shall be submitted to the Code Enforcement Officer at least 14 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, the Planning Board may consider the request at the meeting. The Planning Board may vote to hold a public hearing on the proposed revision.
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.
3. The applicant shall submit a copy of the approved plans and 8 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.

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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 in order to ensure that the review criteria are met.
5. The applicant shall record any subdivision plan revision approved by the Planning Board according to Title 30-A MRSA § 4407 and return copies of recorded revised plan to the Code Enforcement Officer.

J. As Built-Plans:

1. Upon Completion of all the public improvements contained in the subdivision, the applicant shall submit a copy of as-built plans to the Planning Board.

K. Appeals to Superior Court:

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.

L. Public Hearing Requirements:

1. The Planning Board shall hold a public hearing on all preliminary plan applications. The Planning Board may vote to hold a public hearing on a final application.
2. The public hearing notice shall be made as follows:
  - a. The Planning Board shall hold a public hearing within 30 days after receiving a complete application. A notice of the date, time and place of the public hearing shall be:
    - (1) Published, at least two times, in a newspaper having general circulation in the municipality. The date of the first publication shall be at least 7 days before the hearing.
    - (2) Mailed by first class mail to the applicant, at least 7 days prior to the public hearing.
    - (3) 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.
3. The Planning Board may vote to continue the public hearing in order 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.

M. Joint Meetings:

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 MRSA § 4401- 4407.

N. Performance Guarantee:

1. A performance guarantee shall be required for all public improvements proposed for the subdivision. The applicant shall submit a proposal for the performance guarantee at the time of submission of the Final Plan. A detailed list of all proposed public improvements including the cost for each shall be submitted with the performance guarantee.

Section 4 (continued)

2. The performance guarantee may include one or more of the following:
  - a. A certified check, in an amount equal to the expense of installing the public improvements, made payable to the Town.
  - b. A performance bond, in an amount equal to the expense of installing the public improvements, made payable to the Town, issued by a surety company.
  - c. A conditional agreement with the Town, whereby no lot in the subdivision may be sold and no building permit issued until the applicant installs all public improvements.
  - d. An irrevocable letter of credit from a bank or other lending institution which shall indicate that funds have been set aside for the construction of the subdivision and may not be used for any other project or loan
3. The Applicant, prior to approval of the final plan, shall consult with the Selectmen and the Town Manager on the terms proposed by the applicant for the performance guarantee. The Selectmen and the Town Manager shall decide on the amount of the certified check, performance bond letter of credit or the terms of the performance guarantees. A period of 1 year (or such period as the Town Manager may determine appropriate, not to exceed 3 years) shall be set forth in the bond time within which required improvements must be completed. The terms established by the Selectmen for the performance guarantee shall be provided in writing to the Planning Board and included as a condition for approval of the subdivision application.
4. Prior to the release of the performance guarantee, the Selectmen and the Town Manager shall determine that the proposed improvements meet or exceed the design and construction requirements specified in this ordinance and the subdivision plans. The Selectmen and the Town Manager shall base its decision upon the inspection reports filed by the Code Enforcement Officer, other Municipal Officials or other designated inspector.
5. Submittal of the, as-built subdivision plans, is a requirement for the release of the performance guarantee.
6. If the Code Enforcement Officer, or other designated inspection official finds that any of the public improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall report this condition to the Selectmen. The Selectmen shall take any steps necessary to preserve the Town's rights.

O. Inspection Requirements:

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:
  - a. All road and access categories as defined in the Litchfield Road Ordinance, (LRO) except driveways, proposed for public acceptance shall also be inspected by a professional engineer as per the road performance standards contained in the Town's Road Ordinance. The engineer will submit a detailed engineer's inspection report to the Code Enforcement Officer.
  - b. The Local Plumbing Inspector shall inspect the installation of all subsurface waste water treatment

Section 4 (continued)

systems.

- c. The Code Enforcement Officer shall inspect all erosion control measures, stormwater management features, and all other site features.
2. At least 15 days prior to commencing construction of required improvements, the subdivider shall notify in writing the Code Enforcement Officer of the time when he proposes to commence construction of improvements so that the Code Enforcement Officer can cause inspection to be made to assure that all specifications and requirements shall be met during the construction of improvements and to assure the satisfactory completion of improvements and utilities required by the Planning Board.
3. The applicant shall be responsible for scheduling all inspections. 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 Town Manager 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 Town Manager and the Selectmen.

## Section 5 Pre-Application Meeting and Site Visit

### A. Purpose:

The purpose of the pre-application meeting and site visit 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.

### B. Procedure:

1. The applicant shall submit a complete sketch plan to the Code Enforcement Officer at least 14 days before a scheduled meeting of the Planning Board.
2. The applicant shall present the sketch plan to the Planning Board and make a verbal presentation regarding the site and the proposed subdivision.
3. Following the applicant's presentation, the Planning Board may ask questions and make suggestions to be incorporated by the applicant into the preliminary plan application.
4. The Planning Board shall determine the contour intervals to be shown on the plan, 10 feet or less.
5. The applicant shall indicate if any proposed roads will be considered for public acceptance.

### C. Submissions:

## Section 5 (continued)

1. The sketch plan does not have to be an engineered plan and may be a free hand penciled sketch.
2. 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.
3. The sketch plan shall show general location of steep slopes, wetlands and vegetative cover.
4. The sketch plan shall be submitted on forms provided by the Planning Board and include the following:
  - a. A copy of the Tax Assessors map of the site and surrounding area.
  - b. A copy of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.
  - c. A copy of the County Soil Survey showing the area of the proposed subdivision including an explanation of each soil type found on the site.
  - d. A copy of Beginning with Habitat Map 1 “Water Resources” and Map 2 “High Value Plant and Animal Habitats” with a half mile circle delineated from subject property on each map. The boundary of the watershed where subject property is located shall be highlighted.

#### D. Site Visit

The applicant may request at the Pre-Application meeting or in writing to the CEO that the Planning Board conduct a site visit of the property for the purpose of clarifying design criteria. All site visits shall be conducted in accordance with Section (4)(F).

### Section 6 Preliminary Plan Review

#### A. Procedure:

1. The applicant shall submit a complete preliminary plan application to the Code Enforcement Officer. The applicant shall be issued a dated receipt.
2. The application shall consist of 2 complete copies including all maps and related attachments. The Code Enforcement Officer shall retain one copy and the other copy shall be placed in the Town Office for public review.
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 Town shall maintain a list of all abutters notified by first class mail, specifying the date the notice was mailed.
4. Within 30 days of the receipt of the preliminary plan application, the Code Enforcement Officer shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Code Enforcement Officer shall notify the applicant of the specific material needed to complete the application.

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5. The Code Enforcement Officer shall schedule a public hearing for the Planning Board within 30 days of determining that it has received a complete application. The applicant shall provide the Code Enforcement Officer with 8 complete copies of the subdivision application for distribution to the Planning Board at least 10 days prior to the scheduled public hearing.
6. Within 30 days of the public hearing, or within another time period as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application.
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.
8. The Planning Board shall inform the Code Enforcement Officer after approval of the preliminary plan if it will require a public hearing on the final plan.

B. Preliminary Plan Submissions:

1. The applicant is responsible for supplying all the necessary information to show that the proposed subdivision is in compliance 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 abutting 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) Verification of right, title or interest in the property.
    - (3) A copy of the most recently recorded deed for the parcel.
    - (4) A copy of all existing and proposed, deed restrictions, rights-of-way, or other encumbrances affecting the property.
    - (5) The book and page and Map and lot information of the property.
    - (6) The name, mailing address and map and lot of all property owners abutting the property.
    - (7) Acreage of the proposed 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.(See definition.)
    - (3) Date, north point, graphic scale.
    - (4) Proposed lot lines with dimensions.

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- (5) A survey of the perimeter of the tract giving complete descriptive data by bearing and distances, signed and sealed by a Professional 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 of 10 feet or less.
- (7) The location of all wetlands regardless of size and all vernal pools.
- (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 25% slope.
- (10) The number of acres within the subdivision, location of property lines, existing buildings, impervious areas, and vegetative cover type.
- (11) The location of any significant sand and gravel aquifer
- (12) The location of any Prime Agricultural Soils.
- (13) The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the Town's most recent FIRM Map.
- (14) The boundaries of all shoreland zoning districts.
- (15) The location and boundaries of any significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife.
- (16) 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.
- (17) The location of all scenic areas and Unique Natural Areas.
- (18) The location of all subsurface wastewater disposal system test pits/test boring and test data and appropriate documentation.
- (19) The location of existing and proposed wells and appropriate documentation.
- (20) All temporary and permanent erosion control features proposed for the site.
- (21) All stormwater control hydrology and mitigation design features proposed for the site.
- (22) 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.
- (23) Phosphorus control measures, if the subdivision is located within the direct watershed of a great pond.
- (24) Road plans and specifications and appropriate documentation including if any road is to be considered for public acceptance.
- (25) Traffic access data for the site including an estimate of the amount of vehicular traffic to be generated on a daily basis.
- (26) The type and location of any proposed fire control features and appropriate documentation.
- (27) A list of all proposed deed covenants and restrictions on the plan.
- (28) The location of all existing trails such as but not limited to snowmobile trails and hiking trails.
- (29) The location and size of any existing culverts and drains that will serve the development.
- (30) A detailed list of all proposed public improvements including the cost of each item.

- 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.

## Section 7 Final Plan Review

### A. Procedure:

1. The applicant shall submit a complete final plan application to the Code Enforcement Officer. The applicant shall be issued a dated receipt.
2. The application shall consist of all final plan submission requirements in Section (7)(B) including an electronic copy (Auto-CAD format per Town requirements), 2 stable-based transparencies and 3 paper copies. The Planning Board shall receive 2 original transparencies, and two paper copies. One paper copy shall be placed in the Town Office for public review.
3. Within 30 days of the receipt of the final plan application, the Code Enforcement Officer shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Code Enforcement Officer shall notify the applicant of the specific material needed to complete the application in writing.
4. The Code Enforcement Officer shall schedule a meeting or public hearing for the Planning Board within 30 days of determining that it has received a complete application.
5. Within 30 days of the public hearing or meeting, or within another time period as may be mutually agreed to by the Board and the applicant, the Planning Board shall make a decision on the application.
6. Final plan review shall be conducted following Section 4 procedures.
7. 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 period shall be re-submitted to the Board according to the requirements of Section (7) of this Ordinance.
8. 90 days after approval of the final plan, the Code Enforcement Officer will acquire a copy of their registered plan.

### B. Final Plan Submissions:

1. The applicant is responsible for supplying all the necessary information to show that the proposed subdivision is in compliance with the review criteria 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 all pages of the final plan.
  - h. A performance guarantee, if applicable.

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- i. The location and type of all permanent markers set at all lot corners and verifying documentation including a signed letter from the licensed surveyor who set the monuments stating that the monuments meet requirements of Section 8.C of this Ordinance.
- j. If the subdivision contains any private roads, the plan shall contain a statement as follows: The subdivision roads are designed as private roads and are not eligible for acceptance by the Town of Litchfield.
- 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 covenants or restrictions placed on the subdivision by the applicant.
- m. Appropriate documentation from the Department of Environmental Protection or other applicable State or Federal Agencies shall be provided with the Final Plan Application for any proposed disturbance to any waterbodies indicated on the subdivision plan. Any applicable required setbacks associated with these waterbodies must be delineated on the subdivision plan.

Section 8 Performance Standards

- A. The performance standards contained in this section shall apply to all subdivision proposals in the Town of Litchfield.
- B. General Lot Requirements:
  - 1. All subdivision lots shall conform to the dimensional requirements of the Land Use Ordinance except that lot density shall be determined as described in Section (2)(C) of this Ordinance.
  - 2. The minimum lot area for each proposed subdivision lot shall include a contiguous parcel of land as determined by the Planning Board that is suitable for development.

NOTE: The following areas shall be deemed unsuitable for development: wetlands; rivers; streams; brooks; ponds; vernal pools; stormwater drainage features; public and private rights-of-way; land zoned as resource protection; slopes in excess of 25%; significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife; and identified archeological and historic resources as identified by the Maine Historic Preservation Commission.

- C. Monuments:
  - 1. Monumentation as required by the Maine Board of Registration of Land Surveyors shall be installed at the following:
    - a. At all road intersections and points of curvature, but no farther than 750 feet apart along road lines without intersections or curves.
    - b. At all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degrees or less.
    - c. At all other subdivision boundary corners and angle points as well as lot boundary corners and angle points.
- D. Water Supply:
  - 1. Individual wells shall be sited and constructed to prevent infiltration by surface water and

Section 8 (continued)

contamination from subsurface wastewater disposal systems and other sources of pollution. The lot design shall permit the placement of wells, subsurface wastewater disposal systems and reserve areas in compliance with the Maine Subsurface Wastewater Disposal Rules and the Well Drillers and Pump Installers Rules.

2. The water supply for the subdivision and each lot shall be adequate to supply all the potable, and other water requirements of the development.
3. Furnish documentation from Well Driller or Hydrologist familiar with the area, stating that adequate water is available to supply the sub-division.

E. Fire Protection:

1. The subdivision shall be designed so that the Town of Litchfield Fire Department shall have unrestricted access to all developed areas within the subdivision and adequate provisions are made for a

supply of water for fire suppression. The applicant shall obtain a signed form (provided by the town) from the Fire Chief indicating that the fire protection measures proposed for the subdivision have been reviewed. This statement shall be submitted with the preliminary plan application.

2. The Fire Chief in making his/her review of the proposed fire protection measures shall consider the following:
  - a The road is adequate for the passage of fire equipment.
  - b An adequate water supply is available near or within the subdivision to serve the density of the development.
  - c The Fire Chief shall review the fire protection measures proposed for the subdivision and may make suggestions for water holding features, such as but not limited to a fire pond(s), and for roads over 1000 feet in length a water holding tank or tanks installed per Litchfield Fire Department specs using NFPA standards.
  - d Any provisions under this section shall be maintained by the Home Owners Association. A condition shall be placed on the plan requiring an annual report to be sent to the Code enforcement Officer of all maintenance and inspections.

F. Subsurface Wastewater Disposal Systems:

1. The applicant shall submit evidence of site suitability for subsurface wastewater disposal systems prepared by a Licensed Site Evaluator in compliance with the Subsurface Wastewater Disposal Rules of the State of Maine, or the latest revision to date. The Site Evaluator shall certify in writing that all test pits meet the requirements for a new system and represent an area large enough to support a disposal area on soils which meet Maine's Disposal Rules. All test pit/test boring locations and when applicable subsurface disposal footprints shall be shown on the subdivision plan and be accompanied by an HHE-200 Form or other format which shows the appropriate soils data. Test pit/test boring and when applicable subsurface disposal footprint locations shall also be marked on the site.

2. The applicant shall submit the test pit/test boring data to the Town of Litchfield LPI for review. The LPI shall review the data for conformance with State Law and this Ordinance and issue the applicant a written statement. The LPI shall state whether the data submitted is sufficient to make a reasonable determination that the soils will accommodate a subsurface system or indicate if additional data or site analysis is needed. The applicant shall submit the LPI's statement with the preliminary plan application.

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3. In no instance shall a disposal area for a lot or structure require a New System Variance from the Subsurface Wastewater Disposal Rules. The subdivision shall provide for adequate sewage disposal.
4. Lots less than 30,000 square feet (SF) shall utilize shared subsurface disposal systems. A septic leach field may be permitted in designated, protected open space provided that Maine's Disposal Rules have been met and appropriate provisions for legal obligations related to maintenance and replacement have been established.
5. Lots 30,000 SF or larger must reserve a 1,000 SF foot print suitable for subsurface disposal. A minimum of one test pit and four test borings must be utilized by a Site Evaluator to determine soil suitability for subsurface disposal in the footprint. The footprint shall not be built upon or the soil profile shown in the HHE 200 submitted with the plan shall not be altered.
6. Set back shall be consistent with that of a structure in the Litchfield Land Use Ordinance and the Litchfield Shoreland Zoning Ordinance.
7. A condition shall be placed on the Subdivision Plan and all deeds preserving areas reserved for Subsurface Wastewater Disposal Systems.

G. Erosion Control:

1. All activities which, involve filling, grading, excavation or other similar activities which result in destabilized soil conditions shall comply with the following:
  - a. The site shall be developed so as to prevent soil erosion from entering waterbodies, wetlands, stormwater drainage features, and adjacent land. All temporary and permanent erosion control measures shall be designed in accordance with the current edition of "Maine Erosion and Sediment Control Best Management Practices, by the Maine Department of Environment Protection, March 2003, or the latest revision.
  - b. All temporary and permanent erosion features shall be shown on the subdivision plan. Provisions for the maintenance of both temporary and permanent measures shall be included on the plan.

H. Phosphorus Control:

1. The following standards for phosphorus shall apply to all subdivisions located in the direct watershed of a great pond.
2. A phosphorus control plan describing the generation and control of phosphorus as a result of the proposed subdivision shall be prepared in accordance with the manual "Stormwater Management for Maine (DEPLW0738), Vol. II - Phosphorus Control in Lake Watersheds: A Technical Guide for Evaluating New Development", published by the Maine Department of Environmental Protection, 2008, with the exception of chapter 6, or as revised.
3. Phosphorus shall be treated onsite.

I. Stormwater Control:

1. All construction and development shall be designed to minimize storm water runoff from the site. Where possible existing natural runoff control features shall be retained in order to reduce runoff and encourage infiltration. A storm water control plan shall be developed for the site according to the following standards:
  - a. A storm water control plan shall be developed to limit peak discharges from the site to

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predevelopment levels described in the current edition of “Stormwater Management for Maine (DEPLW0738), Vol. III: Best Management Practices Technical Design Manual”, published by the Maine Department of Environmental Protection, 2006, or as revised.

- b. Peak discharges shall be limited to the predevelopment levels for the 2-year, 10-year and 25-year frequency, 24-hour duration storm.
- c. A storm water control plan that is developed according to the requirements of the Department of Environmental Protection Regulations, Chapter 500, Stormwater Management and Chapter 502, Direct Watersheds of Waterbodies Most at Risk from New Development shall be deemed to be a suitable equivalent to these standards.
- d. Road culverts shall be designed to handle a 25 to 50 year storm frequency.
- e. The size and location of proposed developed and disturbed sites on each lot shall be shown on the plan based upon the phosphorus and stormwater control plan for the subdivision.

J. Waterbody Protection:

The locations of all rivers, streams, brooks, vernal pools and wetlands shall be identified on the subdivision plan. This shall include all perennial and intermittent streams and forested and non-forested wetlands.

K. Ground Water:

- 1. Any development proposed within a Sand and Gravel Aquifer as identified in the Town’s Comprehensive Plan, shall be designed and constructed according to a plan which takes into account the impact of the development upon the aquifer. The plan developed by a professional engineer or qualified groundwater consultant will show that the proposed development will not have an adverse impact upon the aquifer.

L. Historic, Archeological, Wildlife Habitat, Scenic Areas, and Unique Natural Areas:

- 1. The subdivision plan shall show the locations of any historic and archeological sites, wildlife habitat, scenic areas and unique natural areas. If any of these areas are located on the site, a protection plan shall be developed in accordance with the following:
  - a. If any portion of the site is designated as a significant archeological or historic site by the Maine Historic Preservation Commission, or listed on the National Register of Historic Places, the applicant shall develop appropriate measures for the protection of these resources according to local, state and federal regulations.
  - b. If any portion of the site is located within an area designated by the Town of Litchfield as a scenic area or a unique natural area by the Maine Natural Areas Program, the applicant shall develop appropriate measures for the preservation of the values which qualify the site for such designation.
  - c. If any portion of the site is within a wildlife habitat area, the applicant shall consult with the Maine Department of Inland Fisheries and Wildlife and develop measures to protect these areas from environmental damage and habitat loss.

Wildlife habitat areas shall include the following:

- (1) Habitat or endangered species appearing on the official state or federal list of endangered or threatened species.

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- (2) High or moderate value waterfowl and wading bird habitats as defined by the Maine Department of Inland Fisheries and Wildlife.
- (3) Deer wintering areas as identified by the Maine Department of Inland Fisheries and Wildlife.

M. Financial and Technical Capacity:

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:
  - a. A list of all technical and professional staff involved with the proposal and preparation of the application including their qualifications and past experience with projects of similar size and scale.
  - b. 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 past experience with projects of similar size and scale.
  - c. 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.

N. Conformity with All Other Applicable Local Ordinances:

1. The applicant shall show that the subdivision meets all other applicable local ordinances including but not limited to Litchfield's Land Use, Shoreland Zoning, Floodplain Management, Solid Waste, and Road Ordinances.

O. Recreational Access Standards

1. A recreation plan designed to serve the subdivision residents shall be developed according to the requirements listed below. The subdivision proposal shall be deemed to meet the requirement for providing recreation if it conforms to one of the following:
  - a. 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, rights-of-way or other similar easements shall be provided so that residents can access the parcel.
  - b. A multi-purpose trail system which can be reasonably accessed by each proposed subdivision lot is constructed. The trail should be designed to accommodate walkers, cross-country skiing and snowmobiles. Whenever possible the trail should provide a link to existing trails and snowmobile routes.
  - c. An active recreation area composed of land not designated as protected open space and/or designated protected open space, limited to 1 acre of protected open space in the Rural district and up to 25% of the protected open space up to a maximum of 3 acres in other districts and consisting of at least two of the following:
    - Playground for small children

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- Baseball field
  - Tennis court (minimum of 2 courts)
  - Basketball court (full size court)
  - Multi-purpose field
  - The Planning Board may consider other types of active recreation facilities.
- d. Combination of recreational options. The applicant may propose to offer a combination of recreational sites consisting of a portion of some of the options listed above.
- e. A payment into the Town of Litchfield Recreational Development Fund to be used exclusively for the purchase or development of new or existing parks, playgrounds and other recreational facilities subject to Planning Board approval. The amount of such payment shall be \$2500.00 for each lot approved on the final plan. (This option is subject to the creation of the Recreational Development Fund by the Town of Litchfield to be administered by the Town's Board of Selectmen.)
3. Land for the recreational sites may be offered to the Town for public acceptance or may be owned in common by the subdivision lot owners. The applicant may also propose to dedicate the recreation areas to a third party that is incorporated for the purpose of maintaining land for conservation, recreation, and preservation use.

All land proposed for recreation purposes and not part of protected open space specifically required in the district shall be protected by a suitable deed restriction that prohibits development and preserves the land for future inhabitants.

All recreational areas to be owned in common shall include a maintenance plan and mandatory association agreement in each of the subdivision lot deeds.

The Planning Board shall review all proposed ownership arrangements to ensure that the long-term maintenance and preservation of the recreational sites is provided.

P. Trails

1. Existing trails shall be preserved and may be relocated to accommodate development and must maintain adjacent interconnections. Trails relocated must be constructed and be consistent with the original trail.

Q. Agricultural and Forest Resources

1. Whenever a proposed subdivision is located adjacent to a farm listed under the Maine Farm and Open Space Law or a woodlot listed under Tree Growth, suitable provisions shall be incorporated in the subdivision proposal to minimize future conflicts between residential sites, agriculture and forestry operations.
2. To reduce conflicts between residences and activities of a working rural landscape the following shall be required:
- a. A structure set-back of 100 feet from the farm or forest site.
  - b. A vegetative buffer along property lines.
  - c. Location of homes away from the farm or forest.
  - d. A disclosure notice, included in the deed for each lot, to inform the new landowner that

agricultural and forest activities generate noise, dust and odors.

R. Rural Design and Landscape Standards for Public Scenery

1. Each subdivision proposal shall include a landscape or scenic preservation 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:
  - a. Building sites shall be oriented with respect to scenic vistas, natural landscape features, topography, and natural drainage areas.
  - b. Road and lot layout shall be adapted to the existing topography.
  - d. Existing vegetation along front, side and rear lot property lines shall be preserved to the greatest extent possible.
  - e. Lots shall be designed so as to enhance the privacy and rural atmosphere of the development subdivision to the greatest extent practical.
  - f. Trees and stone walls located along the roads shall be preserved to the greatest extent possible in order to maintain a rural landscape corridor.
  - g. Existing vegetation along all streams, ponds, wetlands shall be preserved.
  - h. Prime agriculture soils as identified in the comprehensive plan shall be preserved to the greatest extent possible.

S. Road and Access Provisions for Subdivision Lots

1. Points of subdivision access shall not exceed two.
2. All subdivision roads shall meet the requirements of the Town of Litchfield Road Ordinance.
3. All road and access categories as defined in the town's Road Ordinance will be inspected as required in Section (4)(O)(1)(a) of this Ordinance.

T Affordable Housing Developments

1. Prior to the issuance of a building permit for the construction of any unit within an affordable housing development, the developer shall provide evidence acceptable to the Code Enforcement Officer that a restrictive covenant on the subject property, reviewed and accepted by the Town Attorney, has been recorded in the Kennebec County Registry of Deeds. This restrictive covenant must provide that for a period of at least 30 years after completion of construction of such affordable housing units, the occupancy of said units shall remain limited to households whose taxable income is at or below 80% of local area median income (or 120% of local area median income for owned housing), at the time of initial occupancy. Such restrictive covenants shall be enforceable by the Town of Litchfield and any other third-party the Town shall choose to designate.
2. Notwithstanding the foregoing, an affordable housing development must comply with all shoreland zoning requirements imposed by the Litchfield Shoreland Zoning Ordinance and by the Maine Department of Environmental Protection.
3. Prior to the issuance of a building permit for the construction of a dwelling unit within an affordable housing development, the applicant must submit written verification that the affordable housing unit is connected to adequate water and wastewater facilities. Proof of adequacy must be consistent with the requirements of 30-A M.R.S. § 4364-B(7), as amended.

## Section 9 Definitions

**Abutter:** The owner of any property with one or more common boundaries, or across the road or stream, from the property involved in an application.

**Active Recreation:** Leisure activities that require equipment, take place at prescribed sites, are often performed with others and include tennis and other court games, swimming, baseball and other field sports and playground activities.

**Affordable Housing – Decent, safe, and sanitary dwelling, apartment, or other living accommodation for a household whose income does not exceed 80% (or in the case of owned housing, 120%) of the median income for the area as defined by the United States Department of Housing and Urban Development under the United States Housing Act of 1937, Public Law 75-412, 50 Stat. 888, Section 8, as may be amended.**

**Affordable Housing Development – A proposed residential development where at least 51% of the proposed units will qualify as affordable housing, as defined in this Ordinance.**

**Aggrieved Party:** An owner of land whose property is directly or indirectly affected by the granting of, denial of a permit under this Ordinance; a person whose land abuts land for which a permit has been granted; or any other person or group of persons who have suffered particularized injury as a result of the granting or denial of a permit.

**Agriculture:** The production, keeping, or maintenance for sale or lease, of plants and/or animals, including but not limited to: forage and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and green house products.

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

**Archeological or Historic Resource:** Areas identified by the Maine Historic Preservation Commission as having significant value as an historic or archeological resource and areas listed on the National Register of Historic Places.

**As-Built Plans:** The subdivision plan that shows any changes, modifications, or revisions in the actual placement or construction of all public improvements installed within the subdivision when it differs from the design submitted in the Final Plan.

**Building Envelope:** A building envelope is an area of land marked on a development guide plan or subdivision guide plan outside of which building development is not permitted

**Complete Application with:** An application that the Planning Board decides to be complete when it finds that the submission material required by this Ordinance except for information the Board has waived is sufficient and the application fee has been paid.

**Density of Development:** The number of dwelling units per unit of land.

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the pond through sheet or concentrated flow without first passing through an upstream pond or river.

**Design Criteria:** A set of standards defining parameters to be followed in site design and development.

## Section 9 (continued)

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

Lot: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law to be separately owned, used, developed, built upon or encompass remaining land.

Passive Recreation: Outdoor recreation activities, which involve no structural or mechanical components or facilities such as hiking, fishing, hunting and snowmobile trails.

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

Pre-application Meeting: an initial meeting held between the developer or their representative and the Planning Board to discuss development options.

Preliminary Plan: The preliminary drawings and other required materials indicating the proposed layout of the subdivision to be submitted to the Planning Board for consideration.

Prime Agricultural Soils: Soils identified by the Department of Agriculture in the Soil Survey of Kennebec County, issued August 1978, and also identified in the Town of Litchfield Comprehensive Plan.

Property Owner: The owner of land shall be determined to be that person listed as the current owner of record on the Town of Litchfield property tax assessment records.

Public Improvements: The term shall include all roads proposed for public acceptance; 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.

Public Road or Way: A state, county, or town road dedicated for public use. It shall not include any road or way that has been discontinued or abandoned.

River, Stream, or Brook: Means a channel between defined banks. A channel is created by the action of surface water and has 2 or more of the following characteristics:

- It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5 minute series topographic map, or if that is not available, a 15 minute series topographic map.
- It contains or is known to contain flowing water continuously for a period of at least 3 months of the year in most cases.
- The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.
- The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.
- The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

River, stream or brook does not mean a ditch or other drainage way constructed and maintained solely for the purpose of draining storm water or a grassy swale.

Scenic Area or Vista: Areas identified by the Town of Litchfield Scenic Survey as having significant scenic value to the Town.

## Section 9 (continued)

Significant Wildlife Habitat: Areas identified by the Maine Department of Inland Fisheries and Wildlife as having significant value as habitat for animals.

Sketch Plan: Conceptual maps, renderings and supportive data describing the project proposed by the applicant for initial inquiry and review prior to submitting an application for subdivision approval.

Structure: anything built for the support, shelter or enclosure of persons, animals goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences. The term includes structures temporarily or permanently located, such as decks and satellite dishes. This term excludes Subsurface Wastewater Disposal Systems.

Subdivision: As defined in Title 30-A MRSA § 4401 and in addition, lots greater than 40 acres shall be deemed to be a lot and subject to the provisions of this Ordinance.

Tract: An area, parcel, site, piece of land that is the subject of a development application.

Trail: A recreational access or a path or way created by easement for some form of recreation such-as walking, hiking, biking, skiing, horse riding, or snowmobiling.

Unique Natural Area: Area identified by the Maine Department of Conservation Natural Areas Program as having significant value as a natural area.

Unsuitable for Development: Areas that contain one or more of the following: wetlands, rivers, streams, brooks, ponds, vernal pools, stormwater drainage features, public and private rights-of-way, land zoned as Resource Protection, steep slopes in excess of 25%, significant natural resources as identified by the Department of Inland Fisheries and Wildlife, and archeological and historic resources as identified by the Maine Historic Preservation Commission.

Waterbody: Any great pond, river, stream, brook or wetland.

Wetland: Areas which are inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and are not part of a great pond, river, stream or brook. Wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

Vernal Pool: A naturally occurring, seasonal body of water that does not support fish and does provide breeding habitat for one or more of Maine's four vernal pool indicator species – spotted and blue-spotted salamanders, wood frogs and fairy shrimp as determined by DEP.

## SECTION 10 ENFORCEMENT

- A. It shall be the responsibility of the Code Enforcement Officer to enforce the provisions of this Ordinance.
- B. 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.
- C. 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.

Section 10 (continued)

- D. 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.
- E. 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.
- F. 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.
- G. 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.
- H. No lot in a subdivision may be sold, leased, or otherwise conveyed before completion per this Ordinance of required or proposed improvements including but not limited to common utilities, recreation area, trails, and water tank for the fire department.
- I Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of Title 30-A MRSA § 4452.

## Section 11 Revision and Abandonment

- A. Revisions to Approved Plans.
  - a. Applicability. Any revision to a previously approved subdivision plan must be approved by the Planning Board. If the proposed revision involves the creation of additional lots or dwelling units, the procedures for preliminary plan review shall be followed. If the proposed revision involves only modifications to an approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.
  - b. Submissions. The applicant shall submit a copy of the approved subdivision plan as well as nine (9) copies of the proposed revised plan. The application shall also include such supporting information as is necessary to demonstrate the proposed revised plan's compliance with all applicable performance standards contained in this ordinance. The proposed revised plan shall also indicate that it is a revision of a previously approved and recorded subdivision plan and shall show the title of the subdivision and the book and page in which the original plan is recorded in the Kennebec County Registry of Deeds.
  - c. Scope of Review. The Planning Board's scope of review of a proposed revised plan shall be limited to those portions of the plan that are proposed to be changed.
- B. Abandonment. A previously-approved subdivision may be abandoned in accordance with the following procedures:
  - a. Notice of Intent. The owner of an approved subdivision may submit a notice of intent to abandon a subdivision to the Planning Board, on a form provided by the Town, along with any application fee indicated on the Town of Litchfield Permit Application Fees Schedule. The notice of intent must be submitted with a full-size copy of the approved subdivision plan and a sworn statement from the owner that no lot or easement shown on the approved subdivision plan has been conveyed to a third-party since the date of approval.

## Section 11 (continued)

- b. Review. The Planning Board shall review each notice of intent at a public meeting. Upon finding that no lot or easement shown on the approved subdivision plan has been conveyed to a third party, and that no construction or other improvement has occurred on the subject property following the initial approval of the subdivision plan, the Planning Board may approve the abandonment, subject to any conditions of approval the Planning Board deems to be necessary to fulfill the purposes of the Subdivision Ordinance.
  
- c Certificate of Abandonment. Following approval by the Planning Board, the Chair shall execute a certificate of abandonment, which shall be recorded by the applicant in the Kennebec County Registry of Deeds within ninety (90) days of approval. The applicant shall be responsible for all recording costs as well as all expenses associated with the preparation of the certificate, which shall be paid by the applicant prior to delivery. Failure of the applicant to record the certificate of abandonment within the required timeframe shall void the Planning Board's approval of the abandonment.