

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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# **Subdivision Ordinance Town of Freeport, Maine**

August 4, 2015

*Amended December 21, 2021*

*Amended October 3, 2023*

## TABLE OF CONTENTS

***Please note that page numbers have not been updated in this draft and will be updated in the final document.***

<b>ARTICLE 1 - PURPOSES.....</b>	<b>5</b>
<b>ARTICLE 2 - AUTHORITY AND ADMINISTRATION.....</b>	<b>6</b>
2.1 AUTHORITY.....	6
2.2 ADMINISTRATION.....	6
2.3 AMENDMENTS.....	6
2.4 REPEAL OF PRIOR ORDINANCE.....	6
<b>ARTICLE 3 - DEFINITIONS .....</b>	<b>7</b>
3.1 MEANING OF WORDS.....	7
3.2 DEFINITIONS.....	7
<b>ARTICLE 4 - ADMINISTRATIVE PROCEDURES .....</b>	<b>17</b>
4.1 ADMINISTRATIVE PROCEDURES.....	17
4.2 DEVELOPMENT REVIEW FEE.....	17
<b>ARTICLE 5 - PREAPPLICATION PROCEDURES <i>{AMENDED 06/06/17}</i>.....</b>	<b>18</b>
5.1 PURPOSE.....	18
5.2 PROCEDURE.....	18
5.3 PREAPPLICATION CONFERENCE, AND STAFF SITE INSPECTION.....	18
5.4 SUBMISSION OF COMBINED SITE INVENTORY MAP, SITE ANALYSIS AND CONCEPTUAL SKETCH PLAN.....	19
5.5 SUBMISSION COMPLETENESS.....	19
5.6 SITE INVENTORY, ANALYSIS AND CONCEPTUAL SKETCH PLAN PROCEDURES.....	19
<b>ARTICLE 6 - MINOR SUBDIVISIONS.....</b>	<b>21</b>
6.1 GENERAL.....	21
6.2 PROCEDURE.....	21
6.3 SUBMISSIONS.....	22
6.4 FINAL APPROVAL AND FILING.....	23
<b>ARTICLE 7 - PRELIMINARY PLAN FOR MAJOR SUBDIVISION .....</b>	<b>25</b>
7.1 PROCEDURE.....	25
7.2 SUBMISSIONS.....	26
<b>ARTICLE 8 - FINAL PLAN FOR MAJOR SUBDIVISION .....</b>	<b>28</b>
8.1 PROCEDURE.....	28
8.2 SUBMISSIONS.....	30
8.3 FINAL APPROVAL AND FILING.....	30
<b>ARTICLE 9 - REVISIONS TO APPROVED PLANS.....</b>	<b>32</b>

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

9.1 PROCEDURE.....32

9.2 SUBMISSIONS. ....32

9.3 SCOPE OF REVIEW. ....32

**ARTICLE 10 - INSPECTIONS AND ENFORCEMENT.....33**

10.1 INSPECTION OF REQUIRED IMPROVEMENTS.....33

10.2 VIOLATIONS AND ENFORCEMENT.....35

**ARTICLE 11 - APPROVAL STANDARDS .....36**

11.1 POLLUTION.....36

11.2 SUFFICIENT WATER. ....37

11.3 IMPACT ON EXISTING WATER SUPPLIES.....39

11.4 SOIL EROSION.....40

11.5 TRAFFIC CONDITIONS.....40

11.6 SEWAGE DISPOSAL. ....53

11.7 SOLID WASTE. ....55

11.8 IMPACT ON NATURAL BEAUTY, AESTHETICS, HISTORIC SITES, WILDLIFE HABITAT, RARE NATURAL AREAS, OR PUBLIC ACCESS TO THE SHORELINE.....55

11.9 CONFORMANCE WITH ZONING ORDINANCE AND OTHER LAND USE ORDINANCES. ....58

11.10 FINANCIAL AND TECHNICAL CAPACITY.....59

11.11 IMPACT ON WATER QUALITY OR SHORELINE. ....60

11.12 IMPACT ON GROUND WATER QUALITY OR QUANTITY.....61

11.13 FLOODPLAIN MANAGEMENT.....62

11.14 IDENTIFICATION OF FRESHWATER WETLANDS. ....63

11.15 RIVERS, STREAMS, AND BROOKS. ....63

11.16 STORM WATER MANAGEMENT.....64

11.17 SPAGHETTI LOTS.....66

11.18 PHOSPHORUS IMPACTS ON GREAT PONDS. ....67

11.19 IMPACTS ON ADJOINING MUNICIPALITIES. ....67

**ARTICLE 12 - PERFORMANCE GUARANTEES .....69**

12.1 TYPES OF GUARANTEES. ....69

12.2 CONTENTS OF GUARANTEE. ....69

12.3 ESCROW ACCOUNT. ....69

12.4 LETTER OF CREDIT.....70

12.5 PHASING OF DEVELOPMENT. ....70

12.6 DURATION OF GUARANTEE.....70

12.7 RELEASE OF GUARANTEE.....70

12.8 DEFAULT.....70

12.9 IMPROVEMENTS GUARANTEED. ....70

**ARTICLE 13 - WAIVERS.....72**

13.1 WAIVERS OF SUBMISSION REQUIREMENTS AUTHORIZED.....72

13.2 WAIVERS OF STANDARDS AUTHORIZED.....72

13.3 CONDITIONS. ....72

13.4 WAIVERS TO BE SHOWN ON THE RECORDING PLAN.....72

**ARTICLE 14 – CONDITIONS OF APPROVAL.....73**

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

14.1 STANDARD CONDITION OF APPROVAL.....	73
<b>ARTICLE 15 – APPEALS.....</b>	<b>74</b>
15.1 ADMINISTRATIVE APPEALS.....	74
15.2 APPEALS TO SUPERIOR COURT.....	74
<b>APPENDIX A.....</b>	<b>75</b>
FOUR-STEP DESIGN PROCESS .....	75
<b>APPENDIX B.....</b>	<b>77</b>
SITE INVENTORY MAP, SITE ANALYSIS AND CONCEPTUAL SKETCH PLAN SUBMISSION REQUIREMENTS.....	77
<b>APPENDIX C.....</b>	<b>79</b>
RECORDING PLAN REQUIREMENTS.....	79
<b>APPENDIX D.....</b>	<b>80</b>
MINOR SUBDIVISION SUBMISSION REQUIREMENTS .....	80
<b>APPENDIX E.....</b>	<b>83</b>
ADDITIONAL INFORMATION MAY BE REQUESTED – MAJOR AND MINOR SUBDIVISIONS.....	83
<b>APPENDIX F.....</b>	<b>85</b>
PRELIMINARY PLAN SUBMISSION REQUIREMENTS FOR MAJOR SUBDIVISIONS.....	85
<b>APPENDIX G.....</b>	<b>88</b>
COMMUNITY ASSOCIATION DOCUMENTS AND CONSERVATION OWNERSHIP AND MANAGEMENT PLAN SUBMISSION REQUIREMENTS.....	88
<b>APPENDIX H.....</b>	<b>90</b>
THE FINAL MAJOR SUBDIVISION PLAN SUBMISSION REQUIREMENTS SHALL INCLUDE AT LEAST THE FOLLOWING INFORMATION: .....	90
<b>APPENDIX I.....</b>	<b>93</b>
IRREVOCABLE LETTER OF CREDIT .....	93
<b>ANNEX A.....</b>	<b>95</b>

## ARTICLE 1 - PURPOSES

The purposes of this subdivision ordinance are:

- 1.1 To provide for the expeditious, equitable, and efficient review of proposed subdivisions;
- 1.2 To establish standards for the application of the approval criteria of the State Subdivision Law, found in ~~Title 30-A M.R.S.A.~~ §4401 et seq.;
- 1.3 To ensure that development in the Town of Freeport meets the goals and conforms to the policies of the adopted Comprehensive Plan;
- 1.4 To ensure the comfort, convenience, safety, health, and welfare of the people of the Town of Freeport;
- 1.5 To protect the environment and conserve the natural and cultural resources identified in the adopted Comprehensive Plan as important to the community;
- 1.6 To promote the use of open space subdivision design to protect interconnected networks of open space and establish substantial buffers along boundaries with existing protected land;
- 1.7 To ensure that an adequate 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;
- 1.8 To minimize the potential impacts from new subdivisions on neighboring properties and on the municipality including, but not limited to Rural Management Areas, where rural atmosphere, landscape and natural resources are at risk; and
- 1.9 To promote the development of an economically sound and stable community.

## ARTICLE 2 - AUTHORITY AND ADMINISTRATION

### 2.1 Authority.

- A. This ordinance has been ~~prepared~~adopted and amended in accordance with the provisions of ~~Title~~ 30-A M.R.S.~~A.~~ §4403~~(2)~~.
- B. This ordinance shall be known and may be cited as the “Subdivision Ordinance of the Town of Freeport, Maine.”

### 2.2 Administration & Applicability.

- A. The Project Review Board of the Town of Freeport, hereinafter called the Board, shall administer this ordinance.
- B. The provisions of this ordinance shall ~~pertain~~apply to all land and buildings proposed for subdivision within the boundaries of the Town of Freeport.

### 2.3 Amendments.

- A. This ordinance may be amended by vote of the Town Council of the Town of Freeport upon a public hearing held and a recommendation made by the Planning Board.
- B. The Planning Board shall hold a public hearing prior to the adoption of any amendments to this ordinance. Notice of the public hearing shall be provided at least seven days in advance of the hearing.

### 2.4 Repeal of Prior Ordinance.

Upon adoption of this Ordinance, any prior Subdivision Ordinance (including any amendments) is repealed.

## ARTICLE 3 - DEFINITIONS

### 3.1 Meaning of Words.

Words and terms used in this ordinance shall have the meanings set forth in Section 3.2 below. Words and terms which are not defined in Section 3.2 but are defined in the Zoning Ordinance ~~of the Town of Freeport, Maine~~ shall have the meanings set forth in the Zoning Ordinance. Words and terms which are not defined in either Section 3.2 or in the Zoning Ordinance shall have their customary dictionary meanings. Where the definitions set forth in Section 3.2 of this ordinance include regulations, restrictions, limitations, prohibitions, criteria, or standards, the definitions constitute enforceable requirements of this ordinance.

### 3.2 Definitions.

**Accessory Dwelling Unit (ADU):** *See Section 104 of the Zoning Ordinance.*

**Affordable Housing Development:** *See Section 104 of the Zoning Ordinance.*

**Applicant:** The person applying for subdivision approval under these regulations.

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

**Average Lot Size:** average lot size shall be calculated by adding up the area of all of the lots within a subdivision and dividing by the number of lots. Open spaces and right-of-ways shall not be included in this calculation.

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

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

**Capital Investment Plan:** The portion of the Comprehensive Plan that identifies the projects for consideration for inclusion within the capital improvements program, together with an estimate of the order of magnitude for the cost of each project.

**Comparable Sewer System:** *See Section 104 of the Zoning Ordinance.*

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**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by these regulations, or by a vote of the Project Review Board to waive the submission of required information. The Town Planner shall issue a written statement to the applicant upon the determination that an application is complete.

**Comprehensive Plan:** The Town of Freeport Comprehensive Plan as adopted by the Town Council as amended.

**Conceptual Sketch Plan:** A plan showing the major features of the site and the preliminary, generalized layout of proposed required open space, roads, lots, locations of suitable septic sites if applicable, and other improvements. This plan shall be prepared by a landscape architect or a professional engineer with expertise in civil/site engineering. Engineering details of any proposed improvements are not required and will not be accepted for review or consideration at this stage.

**Conservation Area – Primary (Unbuildable land):** ~~The most severely constrained land with regard to development and environmentally sensitive land as defined in net residential acreage as unbuildable land.~~ See Section 104 of the Zoning Ordinance.

**Conservation Area – Secondary:** ~~Land within seventy five (75) feet of rivers or streams as defined by the Department of Environmental Protection and other natural resource areas of local importance included in the Freeport Open Space Plan dated July 20, 1999 and as amended from time to time, but not those areas considered to be primary conservation areas. In village open space subdivisions, the secondary conservation areas are those areas shown on the Freeport Village Open Space Map 1 and Freeport Village Open Space Map 2, dated August 2, 2005, and attached as addendum 2 of this Ordinance. Freeport Village Open Space Map 1 shows the location of gullies, streams, and wetlands of significance and a 200' buffer along Interstate 295. Freeport Village Open Space Map 2 identifies civic destinations and employment centers to determine if land within a proposed subdivision could provide a connection or link between destinations or to a trail that has a history of use by the public.~~ See Section 104 of the Zoning Ordinance.

**Conservation Easement:** A nonpossessory interest in real property imposing limitations or affirmative obligations on a piece of land as defined by Title 33 M.R.S.A. §476 as amended from time to time.

**Conservation Land:** The portion of required open space to be set aside as part of an open space subdivision, expanded open space subdivision, village open space subdivision or commercial open space subdivision. For open space subdivisions, fifty percent (50%) of the net residential acreage shall be conservation land. For expanded open space subdivisions, sixty- five percent (65%) of the net residential acreage shall be conservation land. For village open space subdivisions, thirty percent (30%) of the net residential acreage shall be conservation land. For commercial open space subdivisions, twenty percent (20%) of net residential acreage shall be conservation land. *{Amended, effective 09/03/19}*



For 12/13/23 Planning Board Public Hearing

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**Dead-end road** – A road with a single common ingress and egress that connects with another major or minor road. For the purposes of measuring the length of a dead-end road, it is the longest continuous route of travel.

- a. ~~R~~required turnarounds such as cul-de-sacs and hammerheads are not included in the length if there are no driveway or road connections;
- b. If a dead-end road has a “Y”, “T” or other configuration, the length is measured by adding all of the different segments of road for the longest continuous length of road;
- c. If a road in a development has more than one entrance, with a dead-end road coming off of that road, the length of the dead-end road is from the point where the dead-end connects to the road with more than one entrance. *{Amended 06/06/17}*

**Density:** The number of dwelling units per acre of land.

**Developed Area:** Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and streets.

**Disturbed Area:** All land areas that are stripped, graded, grubbed, filled or excavated at any time during the site preparation for, or construction of, a project. Cutting of trees, without grubbing, stump removal, disturbance, or exposure of soil is not considered Disturbed Area. Disturbed Area does not include routine maintenance but does include redevelopment and new Impervious Areas. “Routine maintenance” is maintenance performed to maintain the original line and grade, hydraulic capacity, and original purpose of the facility. Paving impervious gravel surfaces provided that an applicant or permittee can prove the original line and grade and hydraulic capacity shall be maintained and original purpose of the gravel surface remains the same is considered routine maintenance. Replacement of a building is not considered routine maintenance of the building and is therefore considered Disturbed Area.

**Driveway:** A vehicular accessway serving two (2) dwelling units or fewer.

**Engineered Subsurface Wastewater Disposal System:** A subsurface wastewater disposal system designed, installed, and operated as a single unit to treat and dispose of two thousand (2,000) gallons of wastewater or more per day or any system designed to be capable of treating wastewater with higher BOD (Biochemical Oxygen Demand) and total suspended solids concentrations than domestic wastewater.

**Farmland:** A parcel consisting of five (5) or more acres of land that is (a) classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or (b) used for the production of agricultural products as defined in 7 M.R.S. § 152(2).

**Forested Wetland:** A freshwater wetland dominated by woody vegetation that is six (6) meters (19 ½') tall or taller.

**Freeport Village Design Standards:** ~~That document entitled “Freeport Village Design Standards” dated August 2, 2005 and attached to this Ordinance as Attachment 1. The Freeport~~

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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~~Village Design Standards are part of this Ordinance. In those instances where a requirement of this Ordinance is described by reference to the Freeport Village Design Standards, the Freeport Village Design Standards shall modify or supersede any different or conflicting requirement or standard of this Ordinance. See Section 104 of the Zoning Ordinance.~~

**Freeport Village Overlay District (FVOD):** The Freeport Village Overlay District as shown on the “Town of Freeport, Maine, Zoning Map”, pursuant to the Zoning Ordinance ~~of the Town of Freeport, Maine.~~

**Freshwater Wetland:** Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, and as defined by the “Corp of Engineers Wetlands Delineation Manual,” January, 1987.

**Frontage-Shore:** ~~The length of a lot bordering on a water body or wetland measured in a straight line, between the intersections of the side lot lines with the shoreline. (Amended 06/06/17)- See Section 104 of the Zoning Ordinance.~~

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

**High Water Mark or Elevation:**

Normal High Water (Tidal): The shoreline elevation at which vegetation changes from predominantly aquatic to predominantly terrestrial. In the case where this is difficult or impossible to determine, or where a determination by the land owner or Code Enforcement Officer is challenged, this evaluation shall be determined by accurate survey with reference to the 1929 National Geodetic Vertical Datum to be 4.9' above 1920 datum.

10% Exceedance High Water (Tidal): The shoreline elevation which marks the upper limit of the typical highest tide of each year. In the case where this is difficult or impossible to determine, or where a determination by the land owner or Code Enforcement Officer is challenged, this elevation shall be determined by accurate survey with reference to the 1929 National Geodetic Vertical Datum to be 7.2' above 1929 datum.

High Water Elevation (Non-tidal): That line on the shores and banks of non-tidal waters at which either vegetation changes from predominantly aquatic to predominantly terrestrial, or where the soils are floodplain soils as categorized by the USDA-SCS

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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Classification System, or where the water has left a definite mark, whichever is at the highest elevation.

In the case of wetlands adjacent to rivers, the normal high water line is the upland edge of the wetland, and not the edge of the open water.

**Impervious Area:** Structures and other man-made improvements to land and materials covering the land which substantially reduce the infiltration of water. Impervious surfaces shall include, but are not limited to, roofs, paved areas, parking lots, and driveways, regardless of surface material.

**Initiate Construction:** The completion of a portion of the improvements which represents no less than thirty (30) percent of the costs of the proposed improvements within an approved project. For the purposes of this ordinance, improvements shall mean roads, sidewalks, utilities, stormwater facilities, and erosion control. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, published by the National Academy of Sciences, Transportation Research Board, 1991. There are six (6) levels of service ranging from Level of Service A, with free traffic flow and no delays, to Level of Service F, with forced flow and congestion resulting in complete failure of the roadway.

**Medium Intensity Soil Survey:** A map identifying the soil types down to mapping units of three (3) acres at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey.

**Multifamily~~Multi-Family~~ Development:** A subdivision that contains three (3) or more dwelling units on land in common ownership, such as apartment buildings, condominiums, Affordable Housing Developments, or mobile home parks.

**Net Residential Acreage:** See Section 104 of the Zoning Ordinance. ~~The area of a tract or parcel of land which, as determined by the Project Review Board, is suitable for development or conservation land as part of a residential subdivision. The area shall be calculated by subtracting the following from the total acreage of the tract or parcel:~~

- ~~A. Portions of the tract or parcel subject to rights-of-way and easements for vehicular traffic:~~
- ~~1. For multi-family developments: total acreage of the tract or parcel used for roads and parking.~~

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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~~2. For any other subdivisions: total acreage used for street right-of-way.~~

~~B. Unbuildable Land (Primary conservation area). The following environmentally sensitive land which, if disturbed, may adversely impact the ecological balances in the environment. No construction or development shall occur on the land areas listed below unless otherwise permitted as provided below.~~

~~1. Deer wintering areas as identified in the Maine Department of Inland Fisheries and Wildlife, Identification and Management of Significant Fish & Wildlife Resources in Southern Coastal Maine, provided in digital format dated October 2003 as amended from time to time.~~

~~2. Wetlands; Forested wetlands shall not be considered an unbuildable area (primary conservation area), except those forested wetlands that are mapped as having very poorly drained soils in the USDA SCS Cumberland County Soil Survey, or forested wetlands flooded during the 100-year storm event, or areas that support breeding habitat for vernal pool-dependent amphibian species.~~

~~3. Portions of the tract or parcel containing slopes over twenty percent (20%) which, because of unstable soils, would be subject to erosion if development were to be located on them.~~

~~4. Portions of the tract or parcel in the 100-year floodplain, floodway and/or coastal high hazard area as designated on the most recently adopted Flood Insurance rate map of the National Flood Insurance Program for the Town of Freeport.~~

~~5. Portions of the tract or parcel below high water elevation (non-tidal) and below ten percent (10%) exceedance high water (tidal) as defined above.~~

~~6. Portions of the tract or parcel covered by surface water bodies.~~

~~Where an interpretation of the geographical boundaries of the unbuildable land is necessary, the Planning Board shall be guided by the following standards:~~

~~1. Whether a portion of the unbuildable area could be incorporated into a minimum sized subdivision lot in such a manner that an adequate developable area for buildings and site improvements with conforming setbacks is retained;~~

~~2. Whether the environmentally sensitive land is adequately protected from disturbance or degradation.~~

**Net Residential Density:** See Section 104 of the Zoning Ordinance. ~~Net residential density shall mean the number of dwelling units per net residential acre.~~

**Potable:** See Section 104 of the Zoning Ordinance.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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**100-Year Flood:** The highest level of flooding that, on the average, has a one percent (1%) chance of occurring in any given year.

**Project Review Board:** The Project Review Board of the Town of Freeport.

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

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

**Public Water System:** ~~A water supply system that provides water to at least fifteen (15) service connections or services water to at least twenty-five (25) individuals daily for at least thirty (30) days a year.~~ “Centrally Managed Water System,” as defined in Section 104 of the Zoning Ordinance.

**Record Drawings:** Scaled detailed drawings of the completed or encountered existing infrastructure within a public right-of-way or easement. The plans shall be prepared and organized in a form that is consistent with the design plans submitted for Project Review Board review during the subdivision approval process or engineering review by the Town Engineer. The plans shall be drawn and noted with field measurements, i.e., three-way ties, made by the contractor installing the infrastructure. The plans shall note the infrastructure materials, widths, diameters, elevations, service connection locations at the main and the right-of-way line, ledge profile, permanent reference benchmark, and other appropriate data necessary to show the completed or encountered existing infrastructure. The record drawing plan set shall include a copy of the signed plat.

**Recording Plan:** An original of the final plan, suitable for recording at the Registry of Deeds that shows only information relevant to the transfer of an interest in the property including property lines with dimensions, easements, wetlands, and the location of test pits, as well as documentation of any waivers, conditions of approval, or other pertinent notes. The recording plan shall not show other information presented on the subdivision plans such as topography, grading, sewer and water line locations and sizes, culverts, and building lines.

**Required Open Space:** The sum of the land area of conservation land and unbuildable land (primary conservation areas) as defined in net residential acreage. This land is within a subdivision with uses as permitted in Sec. 504A, Sec. 504.B and 504.D of the ~~Freeport~~ Zoning Ordinance and which is permanently restricted from future development. Subsurface wastewater disposal systems, or individual wells serving units within an open space or expanded open space subdivision may be located within the required open space if approved by the Project Review Board. *{Amended, effective 09/03/19}*

**Salt Marsh:** Areas along coastal waters (most often along coastal bays) which support salt tolerant species, and where at average high tide during the growing season, the soil is regularly

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inundated by tidal waters. The predominant species is salt marsh cordgrass (*Spartina alterniflora*). More open areas often support widgeon grass, eelgrass, and Sago pondweed.

**Salt Meadow:** Areas which support salt-tolerant plant species bordering the landward side of salt marshes or open coastal water, where the soil is saturated during the growing season but which is rarely inundated by tidal water. Indigenous plant species include salt meadow cordgrass (*Spartina patens*) and black rush; common three-square occurs in fresher areas.

**Sight Distance:** The length of an unobstructed view from a particular access point to the farthest visible point of reference on a roadway, measured as described in Section 11.5.C.2.b of the Ordinance.

**Site Inventory and Analysis:** Inventory maps, renderings, and supporting data describing the site proposed to be subdivided and analyzing the opportunities and constraints for open space preservation, subdivision, and development. The inventory and analysis are submitted for initial review prior to submitting a formal application for subdivision approval.

**Storm Water Best Management Practices (BMP's):** Methods, techniques, designs, practices, and other means to control the quality and quantity of storm water that are approved by the Maine Department of Environmental Protection. Storm water BMP's are identified in "Maine Stormwater Management Design Manual" which is published periodically by the Maine Department of Environmental Protection, dated 2016, or most recent version.

**Story:** ~~T~~hat portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. A story is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters. *{Amended, effective 09/03/19}*

**Street:** For the purposes of this Ordinance and for determining minimum road frontage requirements, a street is considered to be any public way maintained by public authority, except a limited access highway, or a private road fifty (50) feet in width, or a private road shown on a recordable plan, approved by the Project Review Board. Approval of a private road or minimum road frontage requirements shall in no way be construed to imply acceptance by the Town of Freeport for purposes of maintenance, improvements, or other Town services.

**Subdivision:** The division of a tract or parcel of land into three (3) or more lots within any five (5-) year period, that begins after September 23, 1971, as defined by Title 30A §4401, et. seq. as amended from time to time, except that a lot of forty (40) acres or more shall be counted as a lot.

**Subdivision – Commercial Open Space:** a higher-density residential development in a Commercial Districts that permits higher density residential units with reduced road frontage, setbacks and lot sizes, and that maintains open space. The area of the required open space shall be equal or exceed the sum of the unbuildable land (primary conservation areas) as defined

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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by net residential acreage plus twenty percent (20%) of the net residential acreage. The required open space must meet the standards of Section 504.D of this Ordinance. *{Amended, effective 09/03/19}*

**Subdivision – Open Space:** A residential development design that permits reduced lot sizes, road frontage, and setbacks, and that maintains required open space. The area of the required open space shall equal or exceed the sum of the unbuildable land (primary conservation areas) as defined by net residential acreage plus fifty percent (50%) of the net residential acreage.

**Subdivision – Expanded Open Space:** A residential development design that permits reduced lots sizes, road frontage, and setbacks, and that maintains required open space. The area of the required open space shall equal or exceed the sum of the unbuildable land (primary conservation areas) as defined by net residential acreage plus sixty-five percent (65%) of the net residential acreage.

**Subdivision – Large Lot:** A residential development design that requires lot sizes be at least double the minimum lot size of the district in which the subdivision is located. The net residential density of a large lot subdivision shall be fifty percent (50%) less than an open space subdivision. A note on the plan and a deed restriction forbidding further subdivision of these lots unless the appropriate density requirement for a large lot subdivision can be met must be provided.

**Subdivision – Village Open Space:** A residential development design that permits reduced lot sizes, road frontage, and setbacks, and that maintains open space within the Freeport Village Overlay District. The area of the required village open space shall equal or exceed the sum of the unbuildable land (primary conservation areas) as defined by net residential acreage plus thirty percent (30%) of the net residential acreage. The required village open space may be met with either land, a fee in lieu of land, or a combination of both land and a fee in lieu of land as further described in Section 504B of this Ordinance.

**Subdivision, Major:** Any subdivision containing 11 or more lots or 16 or more units that are connected to the public water and sewer system, or six (6) or more lots or dwelling units that are not connected to the public water and sewer system.

**Subdivision, Minor:** Any subdivision containing 10 or fewer lots or 15 or fewer units that are connected to the public water and sewer system, or five (5) or fewer lots or dwelling units for lots or units that are not connected to the public water and sewer system.

**Town Engineer:** Any registered professional engineer hired or retained by the Town, either as staff or on a consulting basis.

**Town Planner:** The staff person responsible for the direction of the Planning Department, his/her designee, or other person designated by the Town Manager to be responsible for development review.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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**Tract or Parcel of Land:** As defined by 30-A M.R.S.A. §4401, as such may be amended from time to time.

**Zoning Ordinance:** The Zoning Ordinance of the Town of Freeport, Maine, as such may be amended from time to time.

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## **ARTICLE 4 - ADMINISTRATIVE PROCEDURES**

### **4.1 Administrative Procedures.**

To establish an orderly, equitable, and expeditious procedure for reviewing subdivisions and to avoid unnecessary delays in processing applications for subdivision review, the Project Review Board shall adopt procedures governing the handling of application submissions including the establishment of a submittal deadline for being placed upon the Board's agenda. The Town Planner shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared in advance of the meeting, distributed to the Board members and any applicants appearing on the agenda, and posted at the municipal offices. Except for good cause shown and as otherwise permitted by law, the Board shall take no action on any application not appearing on the Board's written agenda.

### **4.2 Development Review Fee.**

The Town may use contracted staff such as the Town Engineer or Town Attorney or outside consultants to review those aspects of a subdivision proposal that are outside of the expertise of Town staff. The cost of this outside review shall be borne by the applicant. To cover the cost of this outside review, an applicant shall deposit a development review fee with the Planning Department at the time of the submission of a minor subdivision application or at the time of the submission of the preliminary application and the final application for a major subdivision. The Town shall use this fee to pay for outside review services. The Planning Department shall maintain a project account for each subdivision showing the amounts of the deposits and the charges incurred for review of the subdivision proposal. The initial deposit shall be the full estimated cost for the review by all consultants. If the project account is drawn down to twenty-five percent (25%) or less of the amount originally deposited, the Planning Department shall notify the applicant and require that an additional twenty-five dollars (\$25) per lot or dwelling unit (whichever is greater) be deposited by the applicant. The Department shall continue to notify the applicant and require an additional twenty-five dollars (\$25) per lot or dwelling unit be deposited as necessary whenever the balance of the account is drawn down by twenty-five percent (25%) or less of the amount originally deposited. Any balance in the account remaining after a decision on the final plan application by the Board, shall be returned to the applicant. Payment of this fee may not be waived. Further, payment of the fee shall be deemed a cost of review and shall not be contingent on plan approval.

## **ARTICLE 5 - PREAPPLICATION PROCEDURES** *{Amended 06/06/17}*

### **5.1 Purpose.**

The purpose of the preapplication process is for the applicant to present general information regarding the proposed subdivision to the staff and Board and receive the staff's and Board's comments prior to the expenditure of substantial sums of money on surveying and engineering by the applicant.

### **5.2 Procedure.**

The preapplication phase consists of the following four activities:

- A. A preapplication conference
- B. Staff site inspection (optional)
- C. The submission and review by the Board of a Site Inventory Map and Site Analysis and Conceptual Sketch Plan
- D. The classification of the project as a Minor or Major Subdivision

### **5.3 Preapplication Conference, and Staff Site Inspection.**

All applicants for subdivision review shall schedule a preapplication conference with the Town Planner prior to scheduling a meeting with the Project Review Board. The purpose of this activity is to familiarize the applicant with the Town's procedures and requirements and the Four-Step Design Process (see Appendix A), and to familiarize the Town's representatives with the nature of the project.

As part of the meeting, the Town representative(s) and the applicant may visit the proposed site. At this meeting, the applicant shall be prepared to discuss his/her plans for the development in a general nature.

Such review shall not cause the plan to be a pending application or proceeding under Title 1 M.R.S.A. §302. No decisions relative to the plan, other than the determination of the required contour interval, shall be made at this meeting.

#### **5.4 Submission of combined Site Inventory Map, Site Analysis and Conceptual Sketch Plan.**

After the preapplication conference, the applicant shall submit a combined Site Inventory Map, Site Analysis and Conceptual Sketch Plan to the Town Planner.

#### **5.5 Submission Completeness.**

Upon receipt of the combined Site Inventory Map, Site Analysis and Conceptual Sketch Plan, the Town Planner shall give the applicant a dated receipt. Within ten (10) days of the receipt of a site inventory and analysis submission, the Town Planner shall review the material and determine whether the submission is complete. If the submission is determined to be incomplete, the Planner shall notify the applicant in writing of this finding, shall specify the additional material required to make the submission complete, and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted. These steps shall be repeated until the application is found to be complete. Appeals shall lie from the decision of the Town Planner to the Freeport Project Review Board. When the submission is determined to be complete, the Town Planner shall place the item on the agenda for review by the Project Review Board, and distribute copies of the submission to the Town Engineer, Code Enforcement Officer, Public Works Director, Police Chief, and Fire Chief.

#### **5.6 Site Inventory, Analysis and Conceptual Sketch Plan Procedures.**

The site inventory and analysis phase is intended to provide the applicant, the Project Review Board, and the staff with a better understanding of the site and the opportunities and constraints imposed on its use by both the natural and built environments. It is anticipated that this analysis will result in a subdivision plan that reflects the conditions of the site; those areas most suitable for conservation and open space will be preserved to the maximum extent possible, those areas most suitable for the proposed use will be utilized. Therefore, the submission requirements provide that the applicant submit basic information about the site. In addition, an analysis of that information, and a conceptual sketch plan prepared by a landscape architect or a professional engineer with expertise in civil/site engineering shall also be submitted.

The combined Site Inventory Map, Site Analysis and Conceptual Sketch Plan and a fully executed and signed copy of the Project Review Board application (on form provided by the Town) along with the appropriate application fee shall be submitted to the Town Planner. The Town Planner shall schedule the review by the Project Review Board at the next available meeting. The submission must contain, at a minimum, the required information included in Appendix B. The Project Review Board may waive this requirement or reduce the amount of information required for the revision of previously approved plans and for Minor Subdivisions, upon a finding that the analysis provided by this process is not necessary due to the scale of the project and the absence of any significant natural resources or development constraints on the site. Requests for waivers from a

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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submission requirement must be submitted in writing by the applicant. Unless waived by the Board, this review must be completed prior to the preparation and submission of a subdivision application and supporting documentation. The Board shall review the combined Site Inventory Map, Site Analysis and Conceptual Sketch Plan with the applicant and shall authorize the submission of the formal application when the site analysis phase is complete.

The Town Planner shall notify all property owners within five hundred (500) feet of the property to be subdivided of the pending application and the date, time, and place of the meeting at which the Project Review Board will review the Site Inventory Map, Site Analysis and Conceptual Sketch Plan.

The Town Planner shall prepare a vertical aerial photograph enlarged to a scale not less detailed than 1 inch = 400 feet, to show the relationship of the proposed subdivision to adjacent properties. The aerial photograph shall include property boundaries in the area, locations and names of existing streets, boundaries and designations of zoning districts, mapped wetlands, public land, and land protected under conservation easements.

Within 45 days of the first Project Review Board meeting at which the combined site inventory, site analysis and conceptual site plan application is discussed or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall complete a finding of fact that the appropriate areas have been determined for development and for conservation or open space.

The Project Review Board may schedule an on-site inspection of the site to review the existing conditions, field verify the information submitted, and investigate the development proposal. If a review is pending during a period when there is snow cover, the deadline by which the Project Review Board shall take final action on the site inventory and analysis may be extended, which extension shall not exceed thirty (30) days after the Board is able to conduct an on-site inspection.

The Board shall review the submission to determine if the information provides a clear understanding of the site and identifies opportunities and constraints that help determine how it should be used, areas that are appropriate for conservation areas, and areas that are appropriate for development. The Board shall also consider any input received from members of the staff. The outcome of the review process shall be the identification by the Board of the issues and constraints that must be addressed in the formal subdivision application and the classification by the Board of the project as a Major or Minor Subdivision (which classification may later be revised if the scope of the project changes). The Board shall also act on any requests for waivers at this time, except that the Board may postpone action on a request for a waiver if the Board has determined that additional information is needed. Review of the Site Inventory Map, Site Analysis and Conceptual Plan shall be considered complete upon a finding by the Project Review Board that the appropriate areas have been determined for development and for conservation or open space.

## ARTICLE 6 - MINOR SUBDIVISIONS

### 6.1 General.

An application for a Minor Subdivision shall be reviewed in accordance with the following procedures. In addition, the Project Review Board may require that a Minor Subdivision comply with some or all of the submission requirements for a Major Subdivision. The additional information may be required when the Project Review Board finds it necessary to decide if the criteria for approval from Title 30-A M.R.S.A §4404, or the standards of Article 11 of these regulations have been met.

### 6.2 Procedure.

- A. After the Project Review Board has completed its review of the Site Inventory Map and Site Analysis and Conceptual Sketch Plan, the applicant shall submit revised plans as outlined in Appendix D of this Ordinance to the Planning Department. Failure to submit the application within six (6) months may require resubmission of the inventory and analysis to the Board. The final plan shall reflect the opportunities and constraints identified in the Site Inventory and Analysis and address any issues identified by the Project Review Board in the site inventory and analysis and conceptual plan phase.
- B. Upon receipt of an application, the Planning Department shall issue the applicant a dated receipt for the application.
- C. Within ten (10) days of the receipt of the final submission, the Town Planner shall determine whether the submission is complete. If the submission is not complete, the Town Planner shall notify the applicant of the specific additional material needed to complete the submission and that the submission will not be considered by the Board until the additional information is provided. Appeals shall lie from the decision of the Town Planner to the Freeport Project Review Board.
- D. When the submission is determined to be complete, the Town Planner shall:
  1. Schedule a public hearing for the next available scheduled meeting of the Project Review Board for which the appropriate notification can be given. Prior to the hearing, the Board shall publish a notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two (2) times. The date of the first publication shall be at least seven (7) days prior to the hearing. A copy of the notice shall be mailed to the applicant.
  2. Distribute the application to the Town Engineer, Code Enforcement Officer, Public Works Director, Police Chief, and Fire Chief for their review and comments.
  3. Notify all owners of property within five hundred (500) feet of the proposed subdivision

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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in writing that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision including a general description of the project, and advising the abutters of the date, time, and location of the meeting at which the application will be considered by the Board. Property owners within five hundred (500) feet of the property shall be notified in writing of all subsequent Project Review Board meetings at which the application is reviewed.

4. Notify the clerk and the Project Review Board of the neighboring municipality if any portion of the subdivision abuts or crosses the municipal boundary.
- E. The applicant, or his/her duly authorized representative, shall attend the meetings of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Board's consideration of the plan until the next meeting that the applicant attends.
- F. Within forty-five (45) days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact, and conclusions relative to the criteria contained in Title 30-A M.R.S.A §4404 and the standards of Article 11. If the Board finds that all the criteria of the Statute and the standards of Article 11 have been met, the Board shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of Article 11 have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards will be met by the subdivision. The Board shall issue a written notice of its decision to the applicant, including findings, conclusions, and any reasons for denial or conditions of approval.

### **6.3 Submissions.**

The final plan application for a Minor Subdivision shall consist of the following items:

- A. The required development review fees.
- B. The Final Subdivision Plan, three (3) 24" x 36" copies and eight (8) 11" x 17" copies containing the information outlined in Appendix D, Recording Plan (See Appendix C), and supporting documentation consisting of one or more maps or drawings drawn to a scale of not more detailed than 1 inch = 100 feet and supporting documentation bound in a single report shall be submitted for final review. Plans shall be no larger than 24 by 36 inches in size.

Prior to the meeting at which action on the plan is anticipated to be taken, the applicant shall submit two (2) reproducible, stable-based transparencies of the recording plan, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office. The reproducible transparencies shall be embossed and printed with the seal of the individual responsible for preparation of the plan.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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**6.4 Final Approval and Filing.**

- A. No plan shall be approved by the Board if the applicant(s) or any other entity in which the applicant(s) or the principals or controlling shareholders of the applicant have a substantial interest is in violation of the provisions of a previously approved plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A §4404, and in this Ordinance have been met, and upon voting to approve the subdivision, the Board shall sign the recording plan. One copy of the signed recording plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is signed by the Board shall become null and void.
- C. The applicant shall provide the Town with a computer disc in a format compatible with the Assessor's records containing the information shown on the recording plan.
- D. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A §4404, and the standards of these regulations. In the event that a Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- E. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- F. Failure to initiate construction of the subdivision within two (2) years of the date of approval and signing of the plan shall render the plan null and void unless the applicant has requested in writing and received an extension and has provided for the continuation of any performance guarantees for the period of the extension prior to the expiration of the two (2) year period. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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Registry of Deeds to that effect.

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## ARTICLE 7 - PRELIMINARY PLAN FOR MAJOR SUBDIVISION

### 7.1 Procedure.

- A. After the Project Review Board has completed its review of the Site Inventory Map and Site Analysis and Conceptual Sketch Plan, the applicant shall submit an application for approval of the preliminary plan for a Major Subdivision to the Planning Department. Failure to submit an application within six (6) months after the Project Review Board has completed its review of the Site Inventory Map and Site Analysis and Conceptual Sketch Plan, or a substantial change to the plan such as a major relocation of a road(s) or lots or the previously unforeseen need for a waiver may require re-submission of the Site Inventory Map and Site Analysis and Conceptual Sketch Plan to the Board. The preliminary plan shall reflect the opportunities and constraints identified in the Site Inventory and Analysis and address any issues identified by the Project Review Board in the site inventory and analysis phase.
- B. Within ten (10) days of the receipt of the preliminary plan submission, the Town Planner shall determine whether the submission is complete. If the submission is not complete, the Town Planner shall notify the applicant of the specific additional material needed to complete the submission and that the submission will not be considered by the Board until the additional information is provided. Appeals shall lie from the decision of the Town Planner to the Freeport Project Review Board.
- C. When the submission is determined to be complete, the Town Planner shall:
  1. Schedule a public hearing for the next regularly scheduled workshop meeting of the Project Review Board for which the appropriate notification can be given. The Board shall publish a notice of the date, time, and place of the hearing in a newspaper of general circulation in the municipality at least two (2) times. The date of the first publication shall be at least seven (7) days prior to the hearing. A copy of the notice shall be mailed to the applicant.
  2. Distribute the application to the Town Engineer, Code Enforcement Officer, Public Works Director, Police Chief, and Fire Chief for their review and comment.
  3. Property owners within five hundred (500) feet of the proposed subdivision shall be notified in writing of all Project Review Board meetings at which the application is reviewed.
  4. Notify the clerk and the Project Review Board of the neighboring municipality if any portion of the subdivision abuts or crosses the municipal boundary.
- D. The applicant, or his/her duly authorized representative, shall attend the meetings of the Board to present the preliminary plan. Failure to attend the meeting to present the plan

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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shall result in a delay of the Board’s consideration of the plan until the next meeting which the applicant attends.

- E. Within forty-five (45) days from the public hearing or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.
- F. When granting approval of a preliminary plan, the Board shall state the conditions of such approval, if any, with respect to:
  - 1. The specific changes which it will require in the final plan;
  - 2. The preservation of conservation areas;
  - 3. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
  - 4. The construction items for which cost estimates will be required as prerequisite to the approval of the final plan.
- G. Approval of a preliminary plan shall not constitute approval of the final plan or intent to approve the final plan, but rather it shall be deemed an expression of approval of the design of the preliminary plan as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the final plan, the Board may require that additional information be submitted and changes in the plan be made as a result of further study of the proposed subdivision or as a result of new information received.

**7.2 Submissions.**

The preliminary plan application shall consist of the following items:

- A. The required development review fees.
- B. Ten (10) copies of Site Analysis and Conceptual Sketch Plan reflecting if any new or updated information developed since the inventory and analysis phase.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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- C. Three (3) 24” x 36” copies and eight (8) 11’ x 17’ copies of a Preliminary Plan and supporting documentation as listed in Appendix F, and also Appendix E if required by the Project Review Board:

The Board may require that information as listed in Appendix E be submitted where necessary to determine whether the preliminary plan is likely to result in a final plan that meets the criteria of Title 30-A M.R.S.A §4404.

- D. If the proposal includes any commonly owned open space or other land, facilities, or improvements (such as roads) that are proposed to be owned in common by the residents of the subdivision, or if the proposal is for an Affordable Housing Development, three (3) copies of draft Community Association Documents and a Conservation Ownership and Management Plan which include the information listed ~~in~~ Appendix G. The Project Review Board may find that additional information is necessary due to unusual or special circumstances.

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## ARTICLE 8 - FINAL PLAN FOR MAJOR SUBDIVISION

### 8.1 Procedure.

- A. Within six (6) months after the approval of the preliminary plan, the applicant shall submit a submission for approval of the final plan to the Planning Department. If the submission for the final plan is not submitted within six (6) months after preliminary plan approval, the Board may require re-submission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan and shall incorporate any changes required by the Board.

If an applicant cannot submit the final plan within six (6) months, the applicant may request an extension. Such a request for an extension to the filing deadline shall be submitted, in writing, to the Town Planner prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the applicant has made due progress in preparation of the final plan and in pursuing approval of the plans before other agencies, and that municipal ordinances or regulations which may impact on the proposed development have not been amended.

- B. Prior to submittal of the final plan submission, the following approvals shall be obtained in writing, where applicable:
1. Maine Department of Environmental Protection (MeDEP), under a) the Site Location of Development Act, or b) Natural Resources Protection Act, or other permits as may be required by the MeDEP.
  2. Maine Department of Transportation, if a highway access or traffic movement permit is required.
  3. Maine Department of Human Services, if the applicant proposes to provide a community water system.
  4. Maine Water Company~~Aqua-Maine~~, if the applicant proposes to use either of the public water systems.
  5. Freeport Sewer District if the applicant proposes to use the public sewer system.
  6. Maine Department of Human Services, or other qualified professional, if an engineered subsurface wastewater disposal system(s) is to be utilized.
  7. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

8. Maine Historic Preservation Commission that the property does not include any historic, prehistoric, or archeological features of importance.
- C. Within ten (10) days of the receipt of the final plan submission, the Town Planner shall determine whether the submission is complete. If the submission is not complete, the Town Planner shall notify the applicant of the specific additional material needed to complete the submission and that the submission will not be considered by the Board until the additional information is provided.
- D. Once the Town Planner has determined that the submission is complete, the Town Planner shall:
  1. Place the item on the agenda for the next meeting of the Project Review Board for which the appropriate notification can be given.
  2. Distribute the application to the Town Engineer, Code Enforcement Officer, Public Works Director, Police Chief, and Fire Chief for their review and comment.
  3. Property owners within five hundred (500) feet of the proposed subdivision shall be notified in writing of all Project Review Board meetings at which the application is reviewed.
  4. Notify the clerk and the Project Review Board of the neighboring municipality if any portion of the subdivision abuts or crosses the municipal boundary.
- F. The applicant, or his/her duly authorized representative, shall attend the meetings of the Board to present the final plan. Failure to attend the meeting to present the final plan shall result in a delay of the Board's consideration of the plan until the next meeting which the applicant attends.
- G. At the initial meeting on the final plan, the Board shall determine whether to hold a public hearing on the final plan application.
- H. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days, notify the applicant, publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two (2) times, and notify abutters of the hearing. The date of the first publication shall be at least seven (7) days before the hearing.
- I. Within forty-five (45) days from the public hearing or, if no hearing is held, within sixty (60) days of the Town Planner's determination that the submission is complete, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, or at the initial meeting for final plan review, the Board shall make findings of fact, and conclusions relative to the criteria for approval contained in Title 30-A M.R.S.A §4404 and the standards of these regulations. If the Board finds that all the criteria of the statute and the standards of these regulations have been met, they shall approve the final plan. If the Board finds that any of the criteria of the statute or the standards of these regulations have

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the standards will be met by the subdivision. The Board shall issue a written notice of its decision to the applicant, including findings, conclusions, and any reasons for denial or conditions of approval.

**8.2 Submissions.**

The final plan submission shall consist of the items:

- A. Outstanding development review fees.
- B. A letter of good standing from a lending institution demonstrating that the applicant has the financial capacity to complete the project.
- C. Three (3) 24" x 36" copies and eight (8) 11" x 17" copies of the Final Subdivision Plan (Appendix H), Recording Plan (Appendix C) and supporting documentation consisting of one or more maps or drawings drawn to a scale of not more detailed than 1 inch = 100 feet and supporting documentation bound in a single report.
- D. Two (2) reproducible, stable-based transparency copies of the recording plan, one to be recorded at the Registry of Deeds, the other to be filed at the municipal office. The reproducible transparencies shall be embossed and printed with the seal of the individual responsible for preparation of the plan.

**8.3 Final Approval and Filing.**

- A. No plan shall be approved by the Board if the applicant(s) or any other entity in which the applicant(s) or the principals or shareholders of the applicant have a substantial interest is in violation of the provisions of a previously approved Subdivision or Site Plan within the municipality.
- B. Upon findings of fact and determination that all standards in Title 30-A M.R.S.A §4404, and these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the Registry of Deeds within ninety (90) days of the date upon which the plan is signed by the Board shall become null and void.
- C. At the time the Board grants final plan approval, it may permit the Plan to be divided into two (2) or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the plan.
- D. The applicant shall provide the Town with a computer disc in a format compatible with the Assessor's records containing the information shown on the recording plan.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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- E. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given by the Board and endorsed in writing on the plan, unless the revised final plan is first submitted and the Board approves any modifications, except in accordance with Article 10. The Board shall make findings that the revised plan meets the criteria of Title 30-A M.R.S.A §4404, and the standards of these regulations. In the event that a plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Registry of Deeds.
- F. The approval by the Board of a subdivision plan shall not be deemed to constitute or be evidence of any acceptance by the municipality of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area shall have been shown on the plan to be dedicated to the municipality, approval of the plan shall not constitute an acceptance by the municipality of such areas. The Board shall require the plan to contain appropriate notes to this effect. The Board may also require the filing of a written agreement between the applicant and the municipal officers covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- G. Unless otherwise specified by the Project Review Board in connection with an approved subdivision plan, failure to initiate construction of the subdivision within two (2) years of the date of approval and signing of the plan shall render the plan null and void unless the applicant has requested in writing and received an extension and has provided for the continuation of any performance guarantees for the period of the extension prior to the expiration of the two (2) year period. A phased subdivision plan may be approved by the Board for no more than two years per phase. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice placed in the Registry of Deeds to that effect.

## **ARTICLE 9 - REVISIONS TO APPROVED PLANS**

### **9.1 Procedure.**

An application for a revision to a previously approved plan shall be submitted to the Town Planner. The Town Planner shall review the application and determine the procedure to be used in reviewing the application. Minor changes that do not alter lot lines or the essential nature of the proposal or affect the approval criteria may be approved by the Town Planner by written endorsement of the changes on the approved plan. If the Town Planner determines that the revision requires approval of the Project Review Board, the Town Planner shall place the application on the agenda of the Board in accordance with the procedures of this Ordinance as appropriate. If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for a Minor Subdivision shall be followed. If the application involves the creation of additional lots or dwelling units, the Town Planner shall determine if the procedures for a Minor or Major Subdivision shall be followed based upon the scale of the amendment.

### **9.2 Submissions.**

The applicant shall submit eight (8) 11” x 17” copies of the approved plan as well as three (3) 24” x 36” copies and eight (8) 11” x 17” copies of the proposed revisions. The application shall also include the appropriate supporting information to allow the Board to make a determination that the proposed revisions meet the standards of this Ordinance and the criteria of 30-A M.R.S.A. §4404, as such may be amended from time to time. The revised plan shall indicate that it is the revision of a previously approved and recorded plan and shall show the original name of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

### **9.3 Scope of Review.**

The Board’s scope of review shall be limited to those portions of the plan which are proposed to be changed and the impacts and effects of such changes.



## ARTICLE 10 - INSPECTIONS AND ENFORCEMENT

### 10.1 Inspection of Required Improvements.

- A. Prior to the recording of the approved plan in the Cumberland County Registry of Deeds and at least five (5) days prior to commencing construction of required improvements, the subdivider or builder shall:
  - 1. Notify the Town Engineer in writing of the time when (s)he proposes to commence construction of such improvements, so that the Engineer can schedule a preconstruction meeting and arrange for inspections to assure that all municipal specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
  - 2. Deposit with the Town an inspection fee in the amount of two percent (2%) of the estimated costs of the required improvements. If, upon satisfactory completion of construction and cleanup, there are funds remaining, the surplus shall be refunded to the subdivider or builder as appropriate.
- B. No construction of site improvements, including clearing and grubbing, shall be started until a preconstruction meeting is held. The Town Engineer shall hold the preconstruction meeting with the applicant and his/her contractor to review the construction process, conditions of approval, and procedures for inspection of any improvements. This meeting shall include the Town's inspecting engineer, Public Works Director, and road foreman.
- C. The Town Engineer or other engineer hired by the Town shall inspect any road construction and other improvements at appropriate points in the construction. At a minimum, an inspection shall be conducted at the following times:
  - 1. Upon completion of the clearing and grubbing
  - 2. Upon completion of the excavation of the roadway
  - 3. During the installation of drainage improvements and structures
  - 4. Upon installation of the road subbase
  - 5. Prior to the installation of any paving or other improvements
  - 6. During the paving of the road
  - 7. Upon the completion of the improvements
  - 8. Following loaming and seeding and cleanup

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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9. Upon receipt of a written request for the acceptance of the road as a public street by the Town
- D. If the road or other improvements are constructed in phases, each phase shall be inspected separately.
- At the close of each construction season, the Town shall, at the expense of the subdivider, have the site inspected by the inspecting engineer.
- E. If the inspecting engineer finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting engineer shall so report in writing to the Town Manager, Town Planner, Project Review Board, Codes Enforcement Officer and the applicant/subdivider and contractor. The Town Manager shall take any steps necessary to assure compliance with the approved plans.
- F. If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the inspecting engineer is authorized to approve minor modifications due to unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The inspecting engineer shall issue any approval under this section in writing and shall transmit a copy of the approval to the Town Planner. Revised plans documenting the changes shall be filed with the Planning Department and endorsed by the Town Planner. For major modifications, the applicant shall obtain approval from the Board to modify the plans in accordance with Article 9. Major modifications requiring Project Review Board approval include, but are not limited to, changes such as the relocation of rights-of-way, revisions to property boundaries, or changes of grade by more than one percent (1%).
- G. Prior to the sale of any lot, the applicant shall provide the Town Planner with a letter from a Registered Land Surveyor, stating that all monumentation shown on the plan has been installed.
- H. Upon completion of the construction of a public street and prior to any vote by the Town Council to accept a proposed public way, a written certification signed by the inspecting engineer shall be submitted to the Town Manager certifying that the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility. The subdivider shall submit record drawings to the Town Planner and the Town Engineer prior to the Town's acceptance of any street.
- I. The applicant/subdivider shall be required to maintain all improvements, provide for snow removal on streets and sidewalks, and pay for any street lighting until acceptance of the improvements by the municipality or control is placed with a lot owners' association.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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The subdivider shall file a performance guarantee with the Town Planner upon completion of the public improvements in an amount and form acceptable to the Town Manager assuring that this obligation shall be met. The performance guarantee shall remain in force as long as the subdivider retains this maintenance responsibility.

**10.2 Violations and Enforcement.**

- A. No plan of a division of land within the municipality which would constitute a subdivision shall be recorded in the Registry of Deeds until a final plan has been approved by the Project Review Board in accordance with these regulations.
- B. A person shall not convey, offer, or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- C. The applicant shall not sell, lease, or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- D. 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 Board.
- E. Development of a subdivision without Project Review Board approval or in violation of any terms or conditions of Project Review Board approval shall be a violation of this Ordinance. Development includes, but is not limited to, grading or construction of roads, grading of land or lots, or construction of buildings.
- F. Violations of any provisions of this Ordinance shall be punished in accordance with the provisions of Title 30-A M.R.S.A §4452, and as otherwise provided by law.
- G. This Ordinance shall be enforced by the Town of Freeport Code Enforcement Officer in the same manner as the ~~Town of Freeport~~ Zoning Ordinance. Appeals shall lie from the decision of the Codes Enforcement Officer to the Board of Appeals and from the Board of Appeals to the Superior Court according to the provisions of the Maine revised statutes.

## ARTICLE 11 - APPROVAL STANDARDS

The State Subdivision Law establishes criteria to be used in reviewing applications for the approval of a subdivision. Title 30-A M.R.S.A §4404 provides that the Project Review Board shall consider these criteria in the review of a subdivision and find that the proposal meets these criteria. The performance standards in this article are intended to clarify and expand upon the criteria for approval found within the subdivision statute. In reviewing a proposed subdivision, the Board shall review the application for conformance with the State standards and the following performance standards and make findings that each standard has been met prior to the approval of a final plan. Compliance with the design guidelines of this section shall be considered to be evidence of meeting the appropriate performance standards. Proposed subdivisions not in compliance with the design guidelines may be considered, but the applicant shall provide clear and convincing evidence that the proposed design will meet the statutory criteria for approval, and the performance standards. In all instances, the burden of proof shall be upon the applicant to present adequate information to indicate the statutory criteria for approval and performance standards have been or will be met.

### 11.1 Pollution.

#### A. *State Standard*

**Pollution.** The proposed subdivision will not result in undue water or air pollution. In making the determination, the Board shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains;
2. The nature of soils and subsoils and their ability to adequately support waste disposal;
3. The slope of the land and its effect on effluents;
4. The availability of streams for disposal of effluents; and
5. The applicable state and local health and water resources rules and regulations.

#### B. *Performance Standards*

1. The proposed subdivision shall not discharge wastewater to a water body without a license from the Maine Department of Environmental Protection.
2. Discharges of storm water shall be treated to remove oil, grease, and sediment prior to discharge into surface water bodies.

## 11.2 Sufficient Water.

### A. State Standard

**Sufficient water.** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

### B. Performance Standards

#### 1. Water Supply.

- a. When practical, any Major or Minor Subdivision shall make provisions for connection to the public water system if the Maine Water Company ~~Aqua Maine~~ or South Freeport Water District indicates that it can provide water service.
- b. When a subdivision will be served by the public water system, the complete supply system within the subdivision, including fire hydrants, shall be installed at the expense of the applicant. The size and location of mains, gate valves, hydrants, and service connections shall be reviewed and approved in writing by the servicing water utility and the Fire/Rescue Chief. The system shall be designed by a professional engineer registered in the State of Maine.
- c. When a proposed subdivision will not be served by the public water system, water supply shall be from individual wells or a private community water system.
  - 1) Individual wells shall be sited and constructed to prevent infiltration of surface water and contamination from subsurface wastewater disposal systems and other sources of potential contamination.
  - 2) Lot design shall permit placement of wells, subsurface wastewater disposal areas, and where required, reserve sites for subsurface wastewater disposal areas in compliance with the Maine Subsurface Wastewater Disposal Rules, the Well Drillers and Pump Installers Rules, and the Freeport Building Code Ordinance.
  - 3) If a central water supply system is provided by the applicant, the location and protection of the source and the design, construction, and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
  - 4) In areas where the Project Review Board determines, based upon the written recommendation of the Fire/Rescue Chief or ~~their~~his/her designee, that a reliable water supply for fire fighting purposes is not available within one-

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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half mile of the site, the subdivider shall be responsible for providing adequate fire protection water supply. Subdivisions shall provide adequate fire protection water supply in accordance with NFPA 1231. Acceptable methods include, but are not limited to, fire ponds with an approved dry hydrant, other water sources with an approved dry hydrant, participation in the town's plans to reclaim existing fire ponds, or approved residential sprinkler systems in each principal building. An easement shall be granted to the Town for access to and maintenance of dry hydrants or reservoirs where necessary.

- 5) The construction of water lines shall include the construction of laterals to the property line of each lot created.
- 6) Open space subdivisions may place independent water supply systems in the open space.

2. Water Quality.

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

**C. Design Guidelines**

1. Well Construction.

- a. Dug wells shall not be constructed within one hundred (100) feet of the edge of the pavement of any street, if located downhill from the street, or within fifty (50) feet of the edge of the pavement of any street, if located uphill of the street. This restriction shall be included as a note on the plan and included in deed restrictions for the affected lots.
- b. Within one (1) year of the date of purchase, each lot owner shall be guaranteed by the subdivider access to a supply of potable water of at least three hundred and fifty (350) gallons/day, or the purchase price shall be refunded.

2. Fire Protection.

- a. If fire hydrants connected to a public water supply system are provided, they shall be located in accordance with the standards of the Fire Department and each location shall be approved in writing by the Fire/Rescue Chief or ~~their~~his/her designee.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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- b. Where fire ponds are built for fire protection, a minimum storage capacity of ten thousand (10,000) gallons plus additional storage of two thousand (2,000) gallons per lot or principal building or such other amount as required by the Fire/Rescue Chief shall be provided. The Project Review Board may approve an alternate storage capacity based on the fire flow calculation of NFPA 1231 and as approved by the Fire/Rescue Chief. Where fire ponds are proposed for water storage, the capacity of the pond shall be calculated based on the lowest projected water level less an equivalent of three (3) feet of ice. A detailed plan of the required pond, dry hydrant, piping, and/or access road shall be submitted as part of the application. The Town Engineer and Fire/Rescue Chief shall approve the design of all storage facilities.
- c. Hydrants or other provisions for fire protection water supply shall meet the specifications of the Fire Department and NFPA 1231. The design of hydrants shall be approved by the Fire/Rescue Chief or ~~their~~his/her designee. The minimum pipe size connecting dry hydrants to ponds or underground storage shall be eight (8) inches.
- d. Where a dry hydrant or other water source is not within the right-of-way of a proposed or existing public street, an easement shall be provided to the Town for access to, maintenance, and use of the dry hydrant or reservoir. A suitable accessway to the hydrant or other water source shall be constructed by the applicant. It shall be built to standards approved by the Town Engineer and the Fire/Rescue Chief. Once the hydrant is constructed and the easement accepted by the Town, the Town shall be responsible for the maintenance of the accessway and hydrant.
- e. The applicant shall be responsible for the maintenance of the fire protection water supply for a period of one (1) year following its installation and shall be responsible for any improvements determined to be necessary by the Fire Chief during this period to provide the required storage capacity and flows.
- f. Individual sprinkler systems shall meet the specifications of the Fire Department and NFPA 1231.

**11.3 Impact on Existing Municipal Water Supplies.**

**A. *State Standard***

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

**B. *Performance Standards***

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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A proposed subdivision shall not generate a demand on the source, treatment facilities, or distribution system of the ~~Maine Water Company Aqua-Maine~~ or the South Freeport Water District beyond the capacity of those system components, considering improvements that are planned to be in place prior to occupancy of the subdivision. The applicant shall be responsible for paying the costs of improvements to the supplier's system as necessary to alleviate any deficiencies or expand the capacity of the system needed to service the subdivision.

#### 11.4 Soil Erosion.

##### A. *State Standard*

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

##### B. *Performance Standards*

1. The proposed subdivision shall prevent soil erosion from entering water bodies, wetlands, and adjacent properties.
2. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.
3. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations unless the removal has received site plan approval in accordance with the extraction provisions of the Zoning Ordinance.

#### 11.5 Traffic Conditions.

##### A. *State Standards*

**Traffic.** The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed- 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 23 M.R.S. § 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform with 23 M.R.S. § 704 and any rules adopted under that statute.



For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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**B. Performance Standards**

1. At a minimum, provision shall be made for vehicular access to the subdivision and circulation within the subdivision in such a manner as to:
  - a. Safeguard against hazards to traffic and pedestrians on existing streets and within the subdivision;
  - b. Avoid traffic congestion on any street; and
  - c. Provide safe and convenient circulation on adjacent public streets and within the subdivision.
2. More specifically, access and circulation shall also conform to the following standards:
  - a. The street providing access to the subdivision and neighboring streets and the first intersection(s), or an intersection within two thousand (2,000) feet of the street providing access to the subdivision, whichever is less, which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. Intersections on major access routes to the site which are functioning at a Level of Service C (see definition) or better prior to the development will function at a minimum of Level of Service C after development. If any intersection is functioning at a Level of Service D or lower prior to the development, the project will not reduce the current level of service. (See Freeport Comprehensive Transportation Study 2005, for a levels of service at major intersections)

The Project Review Board may approve a subdivision not meeting this requirement if the applicant demonstrates that:

- 1) A public agency has committed funds to construct improvements necessary to bring or maintain the level of service at this standard, or
  - 2) The applicant will assume the financial responsibility for the improvements necessary to maintain or bring the level of service to this standard and will assure the completion of the improvements with a financial guarantee acceptable to the Town.
- b. All new road construction shall be subject to a Pavement Maintenance Impact fee and the amount of the fee shall be established by order of the Town Council.
  - c. Where necessary to safeguard against hazards to traffic and pedestrians and/or to avoid traffic congestion, provision shall be made for turning lanes, traffic directional

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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islands, frontage roads, sidewalks, bicycle ways, and traffic controls within existing public streets consistent with accepted highway design standards.

- d. Accessways to subdivisions shall be designed to avoid queuing of entering vehicles on any street. Left-lane storage capacity maybe provided as needed to meet anticipated demand. A study or analysis to determine the need for a left-turn storage lane may be done.
  - e. Where site conditions allow, provision shall be made for the extension of streets to connect with nearby streets and to provide access to adjoining lots of similar existing or potential use. Such interconnected streets shall be designed to discourage use by through traffic.
3. Streets shall be named in accordance with the Freeport Street Numbering Ordinance as amended from time to time. The developer shall either install street name, traffic safety, and control signs meeting Town specifications or reimburse the Town for the costs of their installation. Street lighting shall be installed by the developer as approved by the Board.
  4. Following street construction, the developer or contractor shall conduct a thorough clean-up of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan, and be suitably covered with fill and topsoil, limed, fertilized, and seeded and identified on the record drawings.

**C. *Design Guidelines***

1. Standards for Public Streets.

Any street intended to be accepted as by the Town Council as a public street shall conform to the standards of Chapter 26, Street Acceptance Ordinance of the Freeport Municipal Code.

2. Standards for Private Roads.

Private roads shall conform to the following standards:

a. Access Control.

Where a lot has frontage on two (2) or more streets, the access to the lot shall be provided across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. This restriction shall appear as a note on the plan and as a deed restriction for the affected lot.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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b. **Sight Distances.**

Streets and other accesses shall be located and designed in profile and grading to provide adequate sight distance measured in each direction. Sight distances shall be measured from the driver's seat of a vehicle standing on that portion of the exit with the front of the vehicle a minimum of ten (10) feet behind the curb line or edge of shoulder, with the height of the eye 3.5 feet, to the top of an object 4.25 feet above the pavement. A minimum sight distance of ten (10) feet for each mile per hour of the posted speed limit shall be provided. The Project Review Board may require a more or less stringent standard for sight distances depending on the condition of the road, the volume of traffic on a road or other circumstances unique to the property. A more or less stringent standard may be allowed or required only if recommended by a traffic engineer or other qualified professional.

c. **Vertical Alignment.**

Accesses shall be designed to prevent surface water from draining across the intersection. Accesses shall slope upward or downward from the gutter line at a maximum slope of three percent (3%) for at least seventy-five (75) feet. The maximum grade over the entire length shall not exceed ten percent (10%). Accesses shall be flat enough to prevent the dragging of any vehicle undercarriage.

d. **Access Layout and Design.**

The layout and design of the intersection of a proposed street or other access with an existing or proposed public street shall be appropriate for the anticipated use and traffic volume. Any access with a peak hour traffic volume of more than one hundred and fifty (150) passenger car equivalent trips shall be designed based on a site specific traffic analysis prepared by a traffic engineer.

e. **Access Location and Spacing.**

1) **Minimum Corner Clearance.**

Corner clearance shall be measured from the point of tangency of the corner to the point of tangency of the access. Unsignalized intersections shall provide fifty (50) feet of corner clearance; signalized intersections shall provide one hundred and fifty (150) feet of corner clearance.

2) **Access Spacing.**

Accesses and street intersections shall be separated from adjacent accesses; streets, by at least one hundred (100) feet from other residential access and street intersections, and two hundred (200) feet from other commercial accesses and intersections. All access and street intersections shall be at least ten (10) feet from a property line.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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f. Number of Accesses.

The maximum number of accesses shall conform to Section 512 of the ~~Freeport~~ Zoning Ordinance.

g. Curb Requirements.

All accesses entering a curbed street shall be curbed with materials matching the street curbing to a point recommended by the Town Engineer ~~Freeport Public Works Director~~. Sloped curbing is required around all raised channelization islands or medians.

h. Street Design and Construction Standards.

- 1) Where the applicant proposes improvements within existing public streets, the proposed design and construction details shall be approved in writing by the Town Engineer or the Maine Department of Transportation, as appropriate.
- 2) The following notes shall appear on the recorded plan:
  - (a) “The Town of Freeport shall not be responsible for the maintenance, repair, plowing, or similar services for the private road(s) shown on this plan.”
  - (b) “Any private road shown on this plan shall not be accepted as a public street by the Town of Freeport unless the way complies with the standards for public streets included in Chapter 26, Street Acceptance Ordinance of the Freeport Municipal Code.”

i. Street Design Standards.

- 1) These design guidelines shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances associated with the private road, and shall be met unless the applicant can provide clear and convincing evidence that an alternate design is good engineering practice and will meet the performance standards of Article 11.5 of this Ordinance.
- 2) Reserve strips controlling access to streets shall be prohibited except where their control is placed with the municipality.
- 3) Adjacent to areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial uses is contemplated by the municipality, the street right-of-way and/or pavement width shall be increased on each side by one-half of the amount necessary to bring the road into conformance with the standards for commercial streets in these regulations.
- 4) Where a subdivision borders an existing narrow street (not meeting the right-of-way width requirements of the standards for streets in these regulations), or when the Ceomprehensive P~~p~~lan indicates plans for realignment or widening of a road that would

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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require use of some of the land in the subdivision, the plan shall indicate reserved areas for widening or realigning the road marked “Reserved for Road Realignment (Widening) Purposes.” Land reserved for such purposes may not be included in computing lot area or setback requirements of the Zoning Ordinance. When such widening or realignment is included in the ~~municipality’s~~ Capital Investment Plan, the reserve area shall not be included in any lot.

- 5) Any subdivision except Commercial Open Space Subdivisions, containing more than fifteen (15) dwelling units or lots, whichever is less, shall have at least two (2) street connections with existing public streets, streets shown on an Official Map, or streets on an approved subdivision plan for which performance guarantees have been filed and accepted. In Village Open Space Subdivisions this section may be met by reserving right-of-way for future connections and offering the right-of-way to the town for acceptance as a public way. *{Amended, effective 09/03/19}*
- 6) To the extent possible, the centerline of the roadway shall be the centerline of the right-of-way.
- 7) Where street lengths exceed one thousand (1,000) feet between intersections with other streets, the Project Review Board may require a utility/pedestrian easement, at least twenty (20) feet in width, to provide for underground utility crossings and/or a pedestrian pathway of at least five (5) feet in width, constructed in accordance with design standards in this section. Maintenance obligations of the easement shall be included in the written description of the easement.
- 8) Dead-End Streets. *{Amended, effective 09/03/19}*

In addition to the design standards in Table 11.5-1 of this Ordinance, dead-end streets shall be constructed to provide a cul-de-sac turnaround or other turnaround approved by the Town Engineer ~~Director of Public Works~~. Where a turning circle is used, it shall meet the following requirements for radii:

Property line:	eighty-five (85) feet
Outer edge of pavement:	seventy-five (75) feet
Inner edge of pavement:	fifty (50) feet

The Project Review Board may require larger radii for turning circles on a commercial street. The island in the circle shall be landscaped in a manner requiring low maintenance. Where the turning circle is in a wooded area prior to development, a stand of trees shall be maintained within the center of the circle if possible. The Board shall require the reservation of a twenty- (20-) foot easement in line with the street to provide continuation of pedestrian traffic or utilities to the next street. The Board may also require the reservation of a fifty- (50-) foot easement in line with the street to provide continuation of the road where future subdivision is possible. If a hammerhead or T-

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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turnaround is approved, no driveways shall enter onto the turnaround. In all subdivisions except Commercial Open Space

Subdivisions, a dead-end street shall be limited to a maximum of fifteen (15) dwelling units (not including corner lots that gain their access from another street). The length of a dead-end shall not exceed two thousand five hundred (2,500) feet.

1. The Project Review Board may allow more than 15 lots provided the net residential density allows the additional lots and subject to the following limitations:

(a) If the parcel is greater than eighty (80) acres of undeveloped land, three (3) additional lots are allowed. In calculating whether a lot has more than eighty (80) undeveloped acres, 2.5 acres shall be deducted from the total acreage for every existing dwelling unit(s) on the property; and/or

(b) If access to trails for the general public and/or parking is provided in any one of the following ways:

i. One (1) additional lot is allowed for every one-half mile of trail easement over an existing trail. A trail easement shall be at least twenty (20) feet wide and shall be in locations that avoid wetlands, stream crossing or other environmentally sensitive areas. Any trail easement proposed in a wetland, stream crossing or other environmentally sensitive area shall not be included in calculating the length of an easement to be eligible for an additional lot. To be eligible for additional lot(s), the trail must have a tread width of at least eighteen inches (18”) and a cleared area (this includes scrub and shrub vegetation and trees less than four inches in diameter) of at least three feet (3’) on both sides of the tread, and a cleared height of at least eight feet (8’). Additionally, any erosion on existing trails must be corrected including the reason for the erosion and all stream crossings must be above the flood area and in good repair. Existing trails not meeting these standards must be brought up to that standard for the full length of the trail. The trail must have access to a public road, a private road that allows the public the right to use the road, or another well-established trail system. If new trails are required to meet this standard, see subsection (ii) below. Before any development is eligible for additional lot(s) under this subsection, to have maximum input, the Project Review Board is authorized request a recommendation from a public, private or non-profit entity that owns conservation land in the area to determine if the easement is in an appropriate location for a connection to another trail system either existing or possible in the future, if any improvements to the trail(s) are necessary, or if the trail easement provides a public benefit. Any required easement must be accepted by the Freeport Town Council or other entity that can accept

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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easements for public use and recorded in the Cumberland County Registry of Deeds before any additional lots allowed pursuant to this subsection ~~Section (i)~~ are offered for sale; and/or

- ii. One (1) additional lot is allowed for every one-quarter mile of trail that is built by the applicant as either a connection to an existing trail system, as a relocation or reconstruction of an existing system, or as a new system. The constructed trail must have a tread width of at least eighteen inches (18”) and a cleared area (this includes scrub and shrub vegetation and trees less than four inches in diameter) of at least three feet (3’) on both sides of the tread, and a cleared height of at least eight feet (8’). A new trail must include a trail easement that is at least twenty feet wide (20’) and shall be in locations that avoid wetlands, stream crossing or other environmentally sensitive areas. Any trail easement proposed in a wetland, stream crossing or other environmentally sensitive area shall not be included in calculating the length of a trail that is eligible for an additional lot(s). The trail must have access to a public road, a private road that allows the public the right to use the road, or another well-established trail system. Before any trail system is eligible for additional lot(s), to have maximum input, the Project Review Board is authorized request a recommendation from a public, private or non-profit entity that own conservation land in the area to determine if the easement is in an appropriate location for a connection to another trail system either existing or possible in the future, and/or if the trail easement provides a public benefit. Any required easement must be accepted by the Freeport Town Council or other entity that can accept easements for public use and recorded in the Cumberland County Registry of Deeds and all trail construction must be completed according to the plans before any additional lots allowable pursuant to this section ii are offered for sale. The cost of constructing the trails shall be included in the performance guarantee for the subdivision, and/or
- iii. One (1) additional lot is allowed for trail construction and trail easement that provides access to tidal areas or other water body regardless of length in addition to allowable lots as a result of subsections (i) and/or (ii) above, and/or
- iv. One (1) additional lot is allowed for the construction of at least three parking spaces for a trail or trail system. The parking spaces must meet the standards of Section 514.~~B.8(e)7-b~~ (parking areas for open spaces) of the Zoning Ordinance. The cost of constructing the parking spaces shall be included in the performance guarantee for the subdivision. All parking space construction must be completed

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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according to the plan before any additional lots allowable as a result of this subsection iv are offered for sale and/or

- v. No more than four (4) additional lots may be allowed for any subdivision because of these Sections 11.5.C.8.b.i – iv of this Ordinance.
- vi. Any trails or parking areas that are proposed for public use pursuant to ~~these~~ Sections 11.5.C.8.b.i-iv of this Ordinance must include a mechanism for stewardship and maintenance.

2. The Project Review Board may allow a road longer than 2,500 feet, but in no case any longer than 3,500 feet, if:

- a. The shape or configuration of the parcel makes a longer dead end road necessary for the preservation of open space or environmentally sensitive areas.
- b. Dead-end roads longer than 2,500 shall have a pavement width of twenty (20) feet with four foot shoulders for the entire length of the road.

9) Sidewalks.

In the Freeport Village Overlay District, sidewalks shall be provided as described in the Freeport Village Design Standards.

Sidewalks are required if connection to an existing sidewalk is feasible. The Project Review Board may permit sidewalks on one side of the street or may waive the requirement for sidewalks if the Board finds that there are adequate alternative provisions for pedestrians outside of the roadway or the right-of-way or that the scale of the project makes sidewalks unnecessary on one or both sides.

- (a) Sidewalk construction shall be in conformance with the Sidewalk Specifications of the Freeport Policy Manual,
- (b) The Project Review Board may approve the use of alternative materials for sidewalk construction with the approval of the ~~Town Engineer~~Director of Public Works. The applicant shall be responsible for demonstrating that the alternative material is an acceptable equivalent.

10) Bicycle lanes and Trails.

In the Freeport Village Overlay District, bicycle lanes and trails shall be provided as described in the Freeport Village Design Standards.



**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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- 11) Curbs shall be installed wherever needed to control storm water drainage or vehicle movement. The specified traveled way width shall be measured between the curbs.

<u>Description</u>	<u>Private Road- dead-end</u>	<u>Private Road - all others</u>
Minimum Right-of-Way Width	50 ft.	50 ft.
Minimum Traveled Way (Pavement) Width	18 ft.	22 ft.
Sidewalk Width*	4 ft.	5 ft.
Minimum Grade if curbing is used	1	1%
Maximum Grade**	8%	8%
Minimum Centerline Radius	190 ft.	285 ft.
- with superelevation		
- without superelevation		
Roadway Crown***	¼"/ft.	¼"/ft.
Minimum width of Shoulders (gravel or paved)	2'	2'
Minimum angle of street intersections****	60°	60°
Maximum grade within 75 ft. of intersection	3%	3%
Minimum curb radii at intersections	15 ft.	20 ft.
Minimum pavement radii at intersections	20 ft.	30 ft.
Design Speed – mph	25	35

\* Sidewalks required if connection to existing sidewalk is feasible.

\*\* Maximum grade may be exceeded for a length of 100 feet or less.

\*\*\* Roadway crown is per foot of lane width.

\*\*\*\* Street intersection angles shall be as close to 90° as feasible but no less than the listed angle.

j. Street Construction Standards.

Private roads shall be constructed according to the performance standards of the Maine Department of Transportation. The Project Review Board may waive or modify these standards with the approval of the Town Engineer~~Director of Public Works~~ if it finds that the alternative will be equivalent.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

- 1) The minimum thickness of material after reaching ninety-five percent (95%) of modified Proctor maximum density shall meet the specifications in Table 11.5-2 of this Ordinance.

	<u>Private Road</u> <u>dead-end</u>	<u>Private Road</u> <u>all others</u>
Aggregate Subbase Course (Max. sized stone 6")	12"	15"
Crushed Aggregate Base Course	3"	4"
<b>Hot Bituminous Pavement</b>		
Total Thickness	3"	3"
Surface Course (MeDOT 403.210 Superpave Mix 3/8" [9.5mm])	1"	1"
Base Course (MeDOT 403.207 Superpave Mix 3/4" [19mm])	2"	2"

- 2) Bases and Pavement.

- (a) Bases/Subbase.

- i. The Aggregate Subbase Course shall be sand or gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch (3") square mesh sieve shall meet the grading requirements of Table 11.5-3 of this Ordinance.

Aggregate for the subbase shall contain no particles of rock exceeding six (6) inches in any dimension.

Table 11.5-3 <b>Aggregate Subbase Grading Requirements</b>
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**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

ii. An Aggregate Base Course shall be placed on top of the subbase course. The Aggregate Base Course shall be screened or crushed gravel of hard durable particles free from vegetative matter, lumps, or balls of clay and other deleterious substances. The gradation of the part that passes a three-inch (3") square mesh sieve shall meet the grading requirements of Table 11.5-4 of this Ordinance.

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

<b>Table 11.5-4 Base Course Grading Requirements</b>	
<u>Sieve Designation</u>	<u>Percentage by Weight Passing Square Mesh Sieves</u>
3/8 inch	45-70%
1/4 inch	30-55%
No. 50	0-20%
No. 200	0-5%

(b) **Pavement Joints.**

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

(c) **Pavements.**

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

i. Minimum standards for the base layer of pavement shall be the Maine Department of Transportation Specification 403.207 for Superpave mix 3/4" (18mm). The pavement may be placed when the air temperature in the shade at the paving location is 35°F or higher and the surface to be paved is not frozen or unreasonably wet.

ii. Minimum standards for the surface layer of pavement shall be the Maine Department of Transportation Specification 403.210 for Superpave mix 3/8". The pavement may be placed when the air temperature in the shade at the paving location is 50°F or higher.

(d) Gravel Surfaces.

Private ways in the Rural Residential 1 and 2 (RR 1 & 2) and the Resource Protection 2 (RP 2) Districts that are less than seven hundred (700) feet in length may have gravel surfaces provided the road grade is less than four percent (4%), and the road doesn't cross any streams. Surface gravel shall be placed on top of the aggregate subbase and shall have no stones larger than two (2) inches in size and meet the grading requirements of Table 11.5-5 of this Ordinance.

<u>Sieve Designation</u>	<u>Percentage by Weight Passing</u>	<u>Square Mesh Sieves</u>
2 inches	95-100%	
½ inches	30-65%	No. 200
	7-12%	

k. Utilities.

Utilities serving subdivisions shall be installed underground. The Project Review Board may approve overhead utilities when the applicant provides evidence that the increased costs of underground utilities will raise the costs of the housing beyond the market in that location. When utilities are installed underground, the subdivider shall install appropriate signs indicating the location of such utilities.

1. Monuments.

1) Stone or precast reinforced concrete monuments shall be set at all street intersections and points of curvature, but no further than seven hundred and fifty (750) feet apart along all street lines.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

- 2) Stone or precast reinforced concrete monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is one hundred and thirty-five (135) degrees or less.
- 3) Stone or precast reinforced concrete monuments shall be a minimum of four (4) inches square at the top and four (4) feet in length, and set in the ground at final grade level. If site conditions prohibit the installation of a four- (4-) foot monument, the Town Engineer may approve alternative provisions for permanent monumentation. After they are set, a drill hole one-half inch deep shall locate the point or points described above.
- 4) All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points shall be marked by suitable monumentation, as required by the Maine Board of Licensure for Professional Registration of Land Surveyors.

## 11.6 Sewage Disposal.

### A. State Standard

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

### B. Performance Standards

1. Public System.
  - a. When practical, any Major or Minor Subdivision shall make provisions for connection to the public sewer system if the Freeport Sewer District indicates that it can provide sewer service.
  - b. The Freeport Sewer District shall certify that providing service to the proposed subdivision is within the capacity of the system's existing collection and treatment system or improvements planned to be complete prior to the construction of the subdivision.
  - c. All components of the sanitary sewerage system must be designed by a professional engineer registered in the State of Maine. The Sewer District shall review and approve the construction drawings for the sewerage system. The size and location of laterals, collectors, manholes, and pump stations shall be reviewed and approved in writing by the District. All components of the system shall be tested for full compliance with the design specifications and construction practices established by the District.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

- d. The construction of sewer lines shall include the construction of laterals to the property line of each lot created.
  - e. Upstream sewage flows shall be accommodated by an adequately sized system through the proposed subdivision for existing conditions and potential development in the upstream area or areas tributary to the proposed development.
2. Private Systems.
- a. The applicant shall submit evidence of site suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules.
    - 1) The site evaluator shall certify in writing that all test pits which meet the requirements for a new system represent an area large enough for a disposal area on soils which meet the Disposal Rules.
    - 2) A second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area if the limiting factor has been identified as being within eighteen (18) inches of the surface, and if all of the following conditions are met: if the lot is less than one acre in size or is located in a subdivision that has a net residential density of more than one unit per acre; and if the lot is located outside of the existing and likely future service area of the public water system; and if the lot includes a natural resource such as, but not limited to, being located over a mapped sand and gravel aquifer, or being in a shoreland area, or being within one hundred (100) horizontal feet of a high value wetland. The reserve area shall be shown on the plan and restricted so as not to be built upon.
    - 3) In no instance shall a disposal area be on a site which requires a New System Variance from the Subsurface Wastewater Disposal Rules. The Board may waive this standard only in instances where no other reasonable alternative exists. In determining the granting of a waiver, the Board may require the applicant to submit a list of alternatives prepared by a Licensed Site Evaluator.
  - b. In open space subdivisions, individual subsurface wastewater disposal systems may be located within the required open space provided that an appropriate easement granting the lot owner this right is created and the location and easement are approved by the Project Review Board. In approving such easements, the Project Review Board may require that reasonable standards be established to assure that the natural resource value of the required open space will not be reduced.

## 11.7 Solid Waste.

### A. *State Standard*

**Municipal solid waste disposal.** The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized.

### B. *Performance Standards*

The Project Review Board shall require the applicant to make arrangements for the disposal of the solid waste in accordance with the Freeport Solid Waste Control and Solid Waste Flow Control Ordinances. The alternate arrangements shall be at a disposal facility which is in compliance with its license.

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

### A. *State Standard*

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

### B. *Performance Standards*

If the subdivision is designed as an open space subdivision or a village open space subdivision in conformance with the provisions of the Zoning Ordinance, the plan shall provide for the conservation of the highest value resources on the site. All subdivisions shall conform to the following:

1. Preservation of Natural Beauty and Aesthetics.
  - a. The plan shall, by notes on the final plan and deed restrictions, limit the clearing of trees to those areas designated on the plan.
  - b. The subdivision shall be designed to minimize the visibility of buildings from existing public roads to the extent possible.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

2. Retention of Open Spaces and Natural, Historic, or Archeological Features.

- a. If any portion of the subdivision is located within an area designated as a unique natural area by the Ceomprehensive Pplan, or a significant village open space identified on the Village Open Space Map 1 or could provide a trail connection or link to or between civic destinations or the employment destination as shown on Village Open Space Map 2 (see Addendum 2 of the Zoning Ordinance) the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
- b. If any portion of the subdivision is designated as a site of historic, prehistoric, or archeological importance by the Ceomprehensive Pplan or the Maine Historic Preservation Commission, appropriate measures for the protection of the historic, prehistoric, or archeological resources shall be included in the plan.

3. Protection of Significant Wildlife Habitat.

If any portion of a proposed subdivision lies within areas identified and mapped by the Maine Department of Inland Fisheries and Wildlife (MDIFW) as containing rare, endangered, threatened, and special concerned species; designated essential and significant wildlife habitat; or fisheries habitat concern~~(in digital format dated October 2003, as amended from time to time)~~, the applicant shall demonstrate that there shall be minimal impacts on the habitat and species it supports. The plan shall provide for protection of the identified resource in a manner acceptable to the MDIFW~~Maine Department of Inland Fisheries and Wildlife~~ or in accordance with the recommendations of a wildlife biologist with demonstrated experience with the wildlife resource being impacted and approved by the Project Review Board. In the latter situation, the report prepared by the wildlife biologist shall assess the potential impact of the subdivision on the significant habitat and adjacent areas that are important to the maintenance of the affected species and shall describe appropriate mitigation measures to ensure that the subdivision will have minimal impacts on the habitat and the species it supports. These areas include:

- a. Habitat for species appearing on the official state or federal lists of endangered or threatened species;
- b. High and moderate value waterfowl habitats, including nesting and feeding areas; or
- c. A high or moderate value deer wintering area.

4. Shoreline Access.



For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

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

**C. *Design Guidelines***

1. Preservation of Natural Beauty and Aesthetics.

- a. Subdivisions within the Rural Residential Districts shall maintain any existing vegetated buffer along existing roads. The buffer may be broken only for driveways and streets.
- b. Where practical the subdivision shall be designed to encourage locating buildings within forested areas and to discourage locating buildings in open fields visible from existing public roads.

2. Retention of Natural or Historic Features.

Proposed subdivisions which include or are adjacent to buildings, sites, or districts on the National Register of Historic Places or which the Comprehensive Plan has identified as being of historical significance shall be designed in such a manner as to minimize the impacts on the historic features. When the historic features to be protected include buildings, the placement and the architectural design of new structures in the subdivision shall be compatible with the historic structures. The Board shall seek the advice of the Maine Historic Preservation Commission in reviewing such plans.

3. Protection of Significant Wildlife Habitat and Important Habitat Areas.

The following guidelines are designed to protect the significant wildlife resources identified in the municipality. The Board recognizes that wildlife management must take into account many site-specific variables. Applicants proposing to subdivide land within identified wildlife resources must consult with the Maine Department of Inland Fisheries and Wildlife (MDIFW) or a qualified wildlife biologist and provide their written comments to the Board. The guidelines of this section shall apply to only those subdivisions which include significant wildlife habitat or resources identified in Section 11.8.B.3.

a. Protection of Habitat of Endangered or Threatened Species.

- 1) The habitat of species appearing on the official state or federal lists of endangered or threatened species shall be maintained in the required open space.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

- 2) Deed restrictions and notes on the plan shall reflect standards from the ~~MDIFW Department of Inland Fisheries and Wildlife~~ for removal of vegetation within two hundred and fifty (250) feet of the habitat for species appearing on the list of endangered or threatened species unless the Department of Inland Fisheries and Wildlife has approved cutting of vegetation in writing.
- b. Protection of Waterfowl Habitat.
    - 1) There shall be no cutting of vegetation within the strip of land extending seventy-five (75) feet inland from the normal high-water mark of high and moderate value waterfowl habitats, including nesting and feeding areas.
    - 2) This restriction shall appear as a note on the plan and as a deed restriction to the affected lots.
  - c. Protection of Deer Wintering Areas.

The report prepared by a wildlife biologist, selected or approved by the Project Review Board, shall include a management plan for deer wintering areas.
  - d. Protection of ~~-~~Shoreland Areas.
    - 1) All areas subject to Shoreland Zoning shall comply with the relevant standards.
    - 2) These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.
  - e. If the proposed subdivision includes other important wildlife habitat as identified by the ~~MDIFW Department of Inland Fisheries and Wildlife~~ or the Comprehensive Plan, the restrictions on activities in and around these areas shall be reviewed by the ~~MDIFW Department~~ or a qualified wildlife biologist, and their comments presented in writing to the Project Review Board.

## 11.9 Conformance with Zoning Ordinance and Other Land Use Ordinances.

### A. State Standard

**Conformity with local ordinances and plans.** The proposed subdivision conforms with a duly adopted subdivision ordinance, zoning ordinance, floodplain ordinance, the comprehensive plan,

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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and other ordinances included in the municipal code as appropriate. In making this determination, the municipal reviewing authority may interpret these ordinances and plans.

***B. Performance Standards***

The proposed subdivision shall meet all applicable performance standards or design criteria from this Ordinance, the Zoning Ordinance, the Floodplain Management Ordinance, the Loitering, Curfew and Noise Ordinance, and all other applicable land use regulations. If there is a conflict between the requirements of this ordinance and any other ordinance or between the requirements of other ordinances, the more stringent requirement shall apply. *{Amended, effective 12/21/21}*

***C. Design Guidelines***

For lots in large lot subdivisions, and other lots greater than twice the minimum lot ~~areasize~~, deed restrictions and notes on the plan shall either prohibit future divisions of the lots or specify that any future division shall constitute a revision to the plan and shall require approval from the Project Review Board based upon the criteria of the subdivision statute at the time of the revision, the standards of the Town's Subdivision Ordinance then in effect, and any conditions placed on the original approval.

**11.10 Financial and Technical Capacity.**

***A. State Standard***

**Financial and technical capacity.** The subdivider has adequate financial and technical capacity to meet the standards of this section.

***B. Performance Standards***

1. Financial Capacity.

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

2. Technical Ability.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

- a. The applicant shall retain qualified contractors and consultants to supervise, construct, and inspect the required improvements in the proposed subdivision.
- b. In determining the applicant’s technical ability, the Project Review Board shall consider the applicant’s previous experience, the experience and training of the applicant’s consultants and contractors, and the existence of violations of previous approvals involving the applicant, consultants, contractors, or other agents of the applicant.

### 11.11 Impact on Water Quality or Shoreline.

#### A. *State Standard*

**Surface waters; outstanding river segments.** Whenever situated entirely or partially within the watershed of any pond or lake or within two hundred and fifty (250) feet of any wetland, great pond, or river as defined in ~~Title 38 M.R.S. § 436-A, Chapter 3, Subchapter I, Article 2-B<sup>1</sup>~~, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.

1. To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than two hundred and fifty (250) feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
2. The frontage and setback provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning as defined in ~~Title 38 M.R.S. § 436-A, Chapter 3, Subchapter I, Article 2-B<sup>1</sup>~~, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of ~~Section 30-A M.R.S. §4401(1), Subsection 1~~, on September 23, 1983.

#### B. *Performance Standards*

The application shall demonstrate that the cutting or removal of vegetation along water bodies will not increase water temperature, or result in shoreline erosion or sedimentation of water bodies. It shall also demonstrate compliance with the shoreland zoning performance standards where applicable.

#### C. *Design Guidelines*

These restrictions shall appear as notes on the plan and as deed restrictions to the affected lots.

## 11.12 Impact on Ground Water Quality or Quantity.

### A. *State Standard*

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

### B. *Performance Standards*

1. Ground Water Quality.
  - a. No subdivision shall increase any contaminant concentration in the ground water to more than one-half of the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water to more than the Secondary Drinking Water Standards.
  - b. If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.
  - c. If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed one hundred and fifty percent (150%) of the ambient concentration.
  - d. When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:
    - 1) A map showing the basic soils types.
    - 2) The depth to the water table at representative points throughout the subdivision.
    - 3) Drainage conditions throughout the subdivision.
    - 4) Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.
    - 5) An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentrations at any wells within the subdivision, or at the subdivision

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

boundaries; or at a distance of one thousand (1,000) feet from potential contamination sources, whichever is a shortest distance.

- 6) A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within two hundred (200) feet of the subdivision boundaries.
  - e. Projections of ground water quality shall be based on the assumption of drought conditions (assuming sixty percent (60%) of annual average precipitation).
  - f. Subsurface wastewater disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells or other measures to reduce ground water contamination and protect drinking water supplies are recommended in the assessment, those standards shall be included as a note on the final plan, and as restrictions in the deeds to the affected lots.
2. Ground Water Quantity.

Ground water withdrawals by a proposed subdivision utilizing a community well shall not lower the water table beyond the boundaries of the subdivision as allowed by Section 523.B Groundwater Protection of the ~~Freeport~~ Zoning Ordinance.

### 11.13 Floodplain Management.

#### A. *State Standard*

**Flood areas.** Based on the Federal Emergency Management Agency’s Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

#### B. *Performance Standards*

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

1. All public utilities and facilities, such as sewer, gas, electrical and water systems shall be located and constructed to minimize or eliminate flood damages.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

2. All building shall be in accordance with the Freeport Floodplain Ordinance as amended from time to time.
3. If restrictions are necessary, they shall be included in any deed, lease, purchase and sale agreement, or document transferring or expressing an intent to transfer any interest in real estate or structure, including but not limited to a time-share interest. The statement shall clearly state that the municipality will enforce the construction requirements and that fact shall also be included in the deed or any other document previously described.

#### 11.14 Identification of Freshwater Wetlands.

##### A. *State Standard*

**Freshwater wetlands.** All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district.

##### B. *Performance Standards*

Freshwater wetlands, including forested wetlands, shall be identified and mapped in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers.

#### 11.15 Identification of Farmlands.

##### A. *State Standard*

**Farmland.** 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.

##### B. *Performance Standards*

The subdivision plan shall show all farmland located within or abutting the subdivision.

#### 11.16~~5~~ Rivers, Streams, and Brooks.

##### A. *State Standard*

**River, stream or brook.** Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, “river, stream or brook” has the same meaning as in Title 38, Section 480-B, Subsection 9.

***B. Performance Standards***

The final subdivision plan shall show all rivers, streams, and brooks that are located within the subdivision or abut the subdivision.

**11.176 Storm Water Management.**

***A. State Standard***

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

***B. Performance Standards***

1. Adequate provision shall be made for the management of the quantity and quality of all storm water generated within the subdivision, and any drained ground water through a management system using practices equivalent to those described in the Maine Stormwater Management Design Manual, published by the Maine Department of Environmental Protection, dated 2016, or most recent revision. In the Freeport Village Overlay District the standards may be met on-site or off-site; where off-site facilities are used, the applicant must submit documentation that the off-site facilities will be dedicated to providing stormwater management for the subdivision by easement, covenant, or other appropriate legal instrument. The storm water management system shall be designed to meet the following standards:

a. Quantity.

- 1) Peak discharge rates shall be limited to the predevelopment levels for the two- (2-) year, ten- (10-) year, and twenty-five- (25-) year frequency, twenty-four (24-) hour duration storm unless storm water from the subdivision will drain directly into the Atlantic Ocean or other large water body approved by the Town Engineer as having adequate capacity to absorb the increased runoff without adverse impacts.
- 2) Storm water management provisions shall use storm water BMP's that provide for the infiltration of surface runoff into the ground and that minimize the total volume of runoff from the site.

b. Quality.

- 1) The quality of stormwater flows offsite shall be addressed. Storm water best management practices (BMP's) appropriate for the site and type of



For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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activity must be used to meet the standards specified in this section. Preference shall be given to the use of nonstructural BMP's where feasible. Retention of the first one-half inch of runoff from a storm event for twenty-four (24) hours may be required.

2. Where necessary to achieve the above standards, there shall be provided easements or drainage rights-of-way with swales, culverts, catch basins, or other means of channeling surface water within the subdivision and over other properties. Whenever elements of the storm drainage system are not within the right-of-way of a public street and the facilities will not be offered to the Town for acceptance as public facilities, perpetual easements not less than thirty (30) feet in width, conforming substantially with the lines of existing natural drainage, shall be provided to the municipality allowing maintenance and improvement of the system. If there are elements of the storm water system serving more than one lot that require future maintenance to remain effective that are located outside of the right-of-way of a proposed public street, the Project Review Board may require that the applicant offer to give these to the Town with a condition of approval that the Town be permitted to assess the lot owners on a pro rata basis for the costs of the future maintenance of these storm water facilities. A note relative to this condition of approval shall appear on the approved plan and an indication of the condition of approval shall be placed in the deed of each lot subject to the condition. When an offer of dedication is required by the Project Review Board, the applicant shall be responsible for the maintenance of these storm water facilities until they are accepted by the Town.
- c. In addition to any other applicable requirements of this Ordinance and the Freeport Subdivision Ordinance, any development which would require a stormwater management permit from the Maine Department of Environmental Protection (DEP) under 38 M.R.S.~~A.~~ 420-D shall comply with the rules adopted by DEP under 38 M.R.S.~~A.~~ 420-D(1), as the same may be amended from time to time, and the applicant shall document such compliance to the Freeport Project Review Board. Where the standards or other provisions of such stormwater rules conflict with municipal ordinances, the stricter (more protective) standard shall apply.
- d. Subdivisions requiring stormwater management facilities shall enter into a Maintenance Agreement with the Town. ~~A sample of this agreement is attached as Appendix J of this Ordinance.~~

**C. *Design Guidelines***

1. The design of best management practices shall be substantially equivalent to those described in the Maine Stormwater Management Design Manual, published by the Maine Department of Environmental Protection, dated 2016, or most recent revision.
2. The minimum pipe size for any storm drainage pipe shall be fifteen (15) inches for driveway entrances and eighteen (18) inches for cross culverts. The minimum pipe size

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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between drainage structures and at inlets and outfalls shall be fifteen (15) inches. Maximum trench width at the pipe crown shall be the outside diameter of the pipe plus two (2) feet. Pipe shall be bedded in a fine granular material reaching a minimum of six (6) inches below the bottom of the pipe and extending to six (6) inches above the top of the pipe. The material shall contain no stones larger than three (3) inches, lumps of clay, or organic matter.

3. Catch basins shall be installed where necessary and when located within a street shall be located at the curb line.
4. Storm Drainage Construction Standards.
  - a. Materials.
    - 1) Storm drainage pipes shall conform to the requirements of Maine Department of Transportation materials specifications Section 706 for non-metallic pipe and Section 707 for metallic pipe. Bituminous-coated steel pipes shall not be used.
    - 2) Where the storm drainage pipe is to be covered by ten (10) feet or more of fill material, pipe material with a fifty-(50-)year life shall be used. These materials include concrete pipe, polymer coated galvanized corrugated steel pipe, polyvinyl-chloride (PVC) pipe, plastic polyethylene pipe, and corrugated aluminum alloy pipe.
  - b. Manholes shall be provided at all changes in vertical or horizontal alignment and at all junctions. On straight runs, manholes shall be placed at a maximum of four hundred (400) foot intervals.
5. Upon completion, each catch basin or manhole shall be cleaned of all accumulation of silt, debris, or foreign matter and shall be kept clean until final acceptance.

### 11.1~~87~~ Spaghetti Lots.

#### A. *State Standard*

**Spaghetti lots prohibited.** If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond, or coastal wetland as these features are defined in Title 38, ~~Section~~ §480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than five (5) to one (1).

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

**B. Performance Standards**

Any lot that has shore frontage on a river, stream, brook, or great pond as defined by Title 38 M.R.S. ~~A.~~ §480-B, shall not have a lot depth to shore frontage ratio greater than five (5) to one

(1). (See definition of ~~frontage~~ Frontage – shore ~~Shore~~ in ~~Article 3.2~~ Section 104. Definitions of the Zoning Ordinance)

**11.198 Phosphorus Impacts on Great Ponds.**

**A. State Standard**

**Lake phosphorus concentration.** 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.

**11.2019 Impacts on Adjoining Municipalities.**

**A. State Standard**

**Impact on adjoining municipality.** For any proposed 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.

**B. Performance Standards**

If the subdivision is located in two (2) or more municipalities, the applicant shall demonstrate that the project will meet the standards of 11.5 of this Ordinance relating to traffic conditions for all roads impacted by the subdivision regardless of in which municipality the impacted roads are located.

**11.21 Land Impacted by Timber Harvesting.**

**A. State Standard**

**Lands subject to liquidation harvesting.** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12 M.R.S. §8869 (14). If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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subdivision that five (5) years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel.

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

**B. Performance Standards**

If it appears that the land has been harvested within the past 5 years the applicant shall provide written documentation certified from the Maine forest service by a forester licensed pursuant to Title 32, M.R.S. Chapter 76, demonstrating that a violation of Title 12 M.R.S. §8869 (14) has not occurred.

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## **ARTICLE 12 - PERFORMANCE GUARANTEES**

### **12.1 Types of Guarantees.**

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

- A. An escrow account funded by cash or a certified check payable to the Town of Freeport and governed by an escrow agreement in a form reviewed by the Town Attorney and acceptable by the Town Manager.
- B. An irrevocable letter of credit from a financial institution in a form reviewed by the Town Attorney and acceptable by the Town Manager.
- C. Any other performance guarantee reviewed by the Town Attorney as to form and specifically approved by the Freeport Town Council, provided that, in the opinion of the Town Council, such performance guarantees provides security substantially equivalent to an escrow account or an irrevocable letter of credit.

The conditions and amount of the performance guarantee shall be determined by the Project Review Board with the advice of the Town Engineer, Public Works Director, municipal officers, and/or Town Attorney.

### **12.2 Contents of Guarantee.**

The performance guarantee shall be based on a construction schedule, including cost estimates for each major phase of construction, taking into account inflation, and provisions for inspections of each phase of construction. The performance guarantee instrument must specify a date after which the applicant will be in default and the Town shall have access to the funds to finish construction. The performance guarantee may, in the discretion of the Town, provide for partial releases of the performance guarantee amount as specific portions of the required improvements are completed.

### **12.3 Escrow Account.**

A cash payment for the establishment of an escrow account shall be made by either a certified check payable to the Town of Freeport or direct deposit into a bank account opened in the name of the Town of Freeport as escrow agent. Any interest earned on the escrowed funds shall be retained by the Town.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

**12.4 Letter of Credit.**

An irrevocable letter of credit from a bank or other lending institution shall be in substantially the form of Appendix I to this Ordinance.

**12.5 Phasing of Development.**

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

**12.6 Duration of Guarantee.**

The performance guarantee shall remain in force for the entire period during which development of the subdivision occurs (or in the case of default, while the Town pursues its remedies for default) until the guarantee is released by the Town in accordance with 12.7. If the time frame for constructing the improvements covered by the guarantee is extended, the performance guarantee shall also be extended.

**12.7 Release of Guarantee.**

Prior to the release of any part of the performance guarantee, the Town Planner shall determine to his/her satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested. The decision of the Town Planner shall be based upon the report of the Town Engineer or other engineer retained by the Town, and any other agencies and departments who may be involved.

**12.8 Default.**

If, upon inspection, the Town Engineer finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, or have not been completed within any time limit for completion established by the Project Review Board, he or she shall so report in writing to the Director of Public Works, Town Planner, Town Manager, and the applicant or builder. The Town Manager shall take any steps necessary to preserve the Town's rights.

**12.9 Improvements Guaranteed.**

Performance guarantees shall be tendered for all improvements required to meet the standards of these regulations and for the construction of the streets, monumentation, utilities, storm water management facilities, public sewage collection or disposal facilities, public water systems,

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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pedestrian and bicycle trails, landscaping in open spaces, and erosion and sedimentation control measures, all as determined by the Project Review Board.

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## ARTICLE 13 - WAIVERS

### 13.1 Waivers of Submission Requirements Authorized.

Where the Project Review Board determines there are special circumstances relating to a particular parcel proposed to be subdivided, it may waive portions of the submission requirements, except any submission requirements as to which the Ordinance specifically prohibits waiver. For a waiver to be granted, the applicant must demonstrate that the Project Review Board can evaluate the proposed subdivision under the standards of 30-A M.R.S.A. §4404 and of this Ordinance without the information contained in the submissions for which the applicant requests a waiver.

### 13.2 Waivers of Standards Authorized.

Where the Project Review Board makes written findings of fact that, due to special circumstances of a particular parcel proposed to be subdivided, the provision of certain required improvements is not required to provide for the public health, safety, or welfare, or is inappropriate because of inadequate or nonexistent connecting facilities adjacent to or in proximity of the proposed subdivision, where the Project Review Board makes written findings of fact that, due to special circumstances of a particular parcel proposed to be subdivided, compliance with certain of the standards of 30-A M.R.S.A. ~~§4404~~ or of this Ordinance is not required, the Board may waive such requirement or standard, subject to appropriate conditions, provided the waivers do not have the effect of nullifying the intent and purpose of the ~~Freeport~~ Comprehensive Plan, the Zoning Ordinance, or this Ordinance, and provided that the public health, safety, and welfare will not be compromised by the waiver.

### 13.3 Conditions.

Waivers may only be granted in accordance with Sections 13.1 and 13.2. When granting waivers, the Board may set conditions so that the purposes of these regulations are met.

### 13.4 Waivers to Be Shown on the Recording Plan.

When the Project Review Board grants a waiver from any of the improvements required by this Ordinance or from any of the standards of 30-A M.R.S.A. §4404 or this Ordinance, the recording plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.



## **ARTICLE 14 – CONDITIONS OF APPROVAL**

### **14.1 Standard Condition of Approval**

The following note shall appear on the recording plat of every plan:

“The property shown on this plan may be developed and used only as depicted on this approved plan. All elements and features of the plan and all representations made by the applicant concerning the development and use of the property which appear in the record of the Project Review Board approval are conditions of approval. No change from the conditions of approval is permitted unless an amended plan is submitted and approved under the provisions of this Ordinance governing revisions to approved plans.”

## ARTICLE 15 – APPEALS

### 15.1 Administrative Appeals

- a. Any person who has participated in the review process before the Project Review Board and can demonstrate particularized injury may appeal the final decision of the Project Review Board on a subdivision application to the Board of Appeals within 30 days after the Project Review Board has issued its written decision. The appeal must be in writing and must be accompanied by a filing fee which shall be established by the Town Council
- b. The Board of Appeals shall consider the appeal at a meeting held within 60 days of receipt of the written request for an appeal. The Board of Appeals shall publish the time, date, and place of the meeting in a newspaper of area-wide circulation a minimum of 7 days prior to the meeting. Written notice of the meeting shall be sent to all owners of property within 200 feet from the property which is the subject of the appeal a minimum of 10 days prior to the meeting. The meeting is a public proceeding as defined by law.
- c. The Board of Appeals shall not conduct a de novo hearing, but shall review the record of the proceeding before the Project Review Board. If the Board of Appeals finds the Project Review Board record to be insufficient, the Board of Appeals may remand the matter to the Project Review Board for findings and conclusions or for further proceedings, findings and conclusions.
- d. The Board of Appeals may allow persons to present their positions orally or in writing, based on the record of the proceedings before the Project Review Board. The Board of Appeals shall not receive new evidence, including testimony or exhibits, which is not part of the record of the proceedings before the Project Review Board.
- e. The Board of Appeals may reverse the decision of the Project Review Board, in whole or in part, only upon a finding that the decision is contrary to the provisions of this Ordinance or that the decision is unsupported by substantial evidence in the record.
- f. The decision of the Board of Appeals shall be in writing and shall contain findings and conclusions that clearly state, on all relevant factual and legal issues, the action taken by the Board and the reasons for such action. The Board of Appeals shall adopt its written decision within 21 days of the meeting, unless the Board makes a finding that it is unable to do so, or unless an extension has been agreed upon amongst the parties.

### 15.2 Appeals to Superior Court.

Appeals of decisions of the Board of Appeals under this Ordinance shall be to Superior Court according to the provisions of the Maine Rule of Civil Procedure 80B.

## APPENDIX A

### Four-Step Design Process

**This process is intended to allow the developer the full potential of the legally allowable number of lots, while at the same time preserving valuable open space for the Town of Freeport. The Ordinance requires that a landscape architect or a professional engineer experienced in Civil/site engineering proposes a Site Analysis and Conceptual Sketch Plan on behalf of the applicant using the process outlined below.**

#### Step 1: Delineation of Conservation Lands (does not apply to large lot subdivisions)

- A. Calculate the net residential density of the development by determining the net residential acreage of a tract or parcel. The net residential density formula for an open space, expanded open space, large lot subdivision, village open space subdivision or commercial open space subdivision is provided in the district regulation section of the Zoning Ordinance for the zoning district in which a tract or parcel is located. For all other subdivisions, the net residential density is calculated by dividing the net residential acreage by the minimum lot size (or minimum land area for ~~Duplex~~two-family and ~~Multifamily~~multiple-family ~~Dw~~ellings) in the district in which the tract or parcel is located. *{Amended, effective 09/03/19}*
- B. Calculate the area of required open space (conservation land plus unbuildable land as defined in net residential acreage) in accordance with the provisions of this ordinance and of the Zoning Ordinance.
- C. Designate proposed location of open space(s) on the Site Analysis and Conceptual Sketch Plan, using the Comprehensive Plan (~~dated October 1994~~) and the Open Space and Public Access Plan (dated July 1999), identifying Primary Conservation Areas, and areas of significant natural resource or community value. Consider Secondary Conservation Areas, prioritizing natural and cultural resources on the tract from highest to least suitability for inclusion in the proposed required open space. Primary conservation areas within individual building lots should be avoided; however, the Project Review Board may approve a lot that contains a primary conservation area if there is provision for protecting that portion of the lot from being developed.
- D. Indicate the proposed open space using as a basis practical considerations related to the tract's configuration, its context to resource areas on neighboring properties, the priorities listed above for identifying open space areas, and the applicant's subdivision objectives.

#### Step 2: Location of House Sites

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

Potential house sites shall be tentatively located using the proposed open space as a base, as well as other relevant data from the Site Analysis Map, such as topography and soils. House sites should generally be located not closer than one hundred (100) feet from Primary Conservation Areas and fifty (50) feet from Secondary Conservation Areas, taking into consideration the potential negative impacts of residential development on such areas, as well as the potential positive benefits of such locations to provide attractive views and visual settings for residences.

**Step 3: Alignment of Streets**

Upon designating the house sites, a street plan shall be designed to provide vehicular access to each house and bearing a logical relationship to topographic conditions. Impacts of the street plan on proposed conservation lands shall be minimized, particularly with respect to crossing environmentally sensitive areas such as wetlands and traversing slopes exceeding twenty percent (20%). Street connections shall generally be encouraged to minimize the number of new cul-de-sacs and to facilitate access to and from homes in different parts of the tract (and adjoining parcels).

**Step 4: Drawing in the Lot Lines**

Upon completion of the preceding three (3) steps, lot lines shall be drawn as required to delineate the boundaries of individual residential lots. Wherever possible, lot lines shall be perpendicular to the street. If a lot on one side of the road fails to meet the minimum requirements for lot size, it may not be combined with a lot on the other side of the road to meet the minimum lot size.

Applicants shall submit a plan which is the end result of this process, but may be asked by the Project Review Board to submit four (4) separate sketch maps indicating the findings of each step of the design process. In deciding whether it is necessary to submit separate sketch maps for each of the steps listed above, the Board shall consider the size of the parcel or if a significant amount of environmentally sensitive areas are on the site.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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**APPENDIX B** *{Amended 06/06/17}*

**Site Inventory Map, Site Analysis and Conceptual Sketch Plan Submission Requirements**

The submission must contain, at a minimum, the following information:

- A. A completed application form (on forms provided by the Town).
- B. Twelve (12) copies of an accurate scale combined Site Inventory Map, Site Analysis and Conceptual Plan of the parcel at a scale of not more detailed than 1" = 50 feet, showing as a minimum:
  1. The proposed name of the development, north arrow, date, and scale.
  2. The boundaries of the parcel based upon a standard boundary survey prepared by a registered land surveyor and giving the bearings and distances of all property lines.
  3. The topography of the site at a contour interval of either 2 or 5 feet depending on the nature of the use and character of the site as determined by the Town Planner.
  4. The major natural features of the site, including wetlands, vernal pools, streams, ponds, floodplains, groundwater aquifers, significant wildlife habitats, or other important natural features.
  5. The soils on the site through a class C medium intensity soil survey.
  6. Vegetative cover conditions on the property according to general cover type.
  7. Ridgelines and watershed boundaries.
  8. Geologic formations including rock outcrops, cliffs, etc., based upon published data or more detailed on-site analysis.
  9. Existing buildings, structures, or other improvements on the site including streets, driveways, stone walls, etc. (if none, so state).
  10. Locations of all historically or archaeologically significant building or sites.
  11. Existing restrictions or easements on the site (if none, so state).
  12. The location and size of existing utilities or improvements servicing the site (if none, so state).

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

13. Any potential sources of fire protection water supply within one-half mile of the site including public water mains, existing fire ponds, or possible sources of water supply.
  14. Acceptable septic system location for each lot or unit if applicable.
- C. Twelve (12) copies of a detailed narrative describing the existing conditions of the site, the required open space potential of the site, the proposed development, and the constraints and opportunities created by the site. This submission should include a narrative description of the existing road system that will provide access to the project and any issues related to traffic capacity, safety, sight distances, or other traffic considerations, together with any preliminary studies done relative to the site including wetland delineations, traffic studies, market studies, or other information that will help the Board understand the project.
- D. The Site Inventory, Site Analysis and Conceptual Sketch Plan should highlight the opportunities and constraints of the site. This plan shall be prepared by a landscape architect or a professional engineer with expertise in civil/site engineering and should enable the Project Review Board to determine: which areas are well suited for proposed use and which are unsuitable; where the property is unsuitable for on-site sewage disposal if public sewerage is not available; primary and secondary conservation areas; which areas have potential open space value (scenic areas, aquifers, streambed corridors, wildlife habitat, natural drainage courses, farmland, significant forest stands, and land abutting existing public open spaces, etc.); and which areas may be subject to off-site conflicts or concerns (noise, lighting, traffic, etc.). In addition, this plan shall show a conceptual rendering of the layout of lots and roads in accordance with the Four-Step Design Process described in Appendix A. For greater clarity, the Project Review Board may request that the Site Analysis and Conceptual Sketch be presented in two (2) separate plans.
- E. Written requests for any waivers from the Minor Subdivision or preliminary Major Subdivision submission requirements or development standards of Article 12.

## APPENDIX C

### Recording Plan Requirements

The Recording Plan shall show only the information relevant to the transfer of an interest in the property including:

1. The proposed name of the subdivision or identifying title, the name of the municipality, and the assessor's map and lot number.
2. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and adjoining property owners.
3. The date the plan was prepared, north point, and graphic map scale.
4. The zoning district in which the proposed subdivision is located and the location of any zoning boundaries affecting the subdivision.
5. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments. The plan shall indicate the type of monument found or to be set at each lot corner.
6. The layout of lots, existing and proposed easements, streets including the location, names, and present widths of existing streets, and required open spaces. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.
7. The location of wetlands and vernal pools.
8. The location of all soil test pits including an indication of which pits are suitable for the installation of a subsurface wastewater disposal system.

The recording plan shall also include space for the approval of the Project Review Board including a signature block, a record of any waivers granted from the submission requirements or approval standards, any conditions of approval imposed by the Project Review Board, the net residential acreage calculation, and any other pertinent notes or information. The recording plan shall not include information on topography, grading, site improvements, water and sewer facilities, drainage improvements, and the like. This information should be contained in the Subdivision Plan and related documentation.

## APPENDIX D

### Minor Subdivision Submission Requirements

The Subdivision Plan and supporting documentation shall include at least the following information:

1. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
2. The information shown on the recording plan.
3. Verification of right, title, or interest in the property.
4. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
5. The number of acres within the proposed subdivision, location of property lines, existing buildings, vegetative cover type, and other essential existing physical features. On wooded sites, the plan shall indicate the area where clearing for lawns and structures shall be permitted and/or any restrictions to be placed on clearing existing vegetation.
6. The location of all rivers, streams, and brooks within or adjacent to the proposed subdivision.
7. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation, as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
8. Areas within or adjacent to the proposed subdivision which have been identified as high or moderate value wildlife habitat by the Maine Department of Inland Fisheries and Wildlife or within the Comprehensive Plan. If any portion of the subdivision is located within an area designated as a critical natural area by the Comprehensive Plan or the Maine Natural Areas Program, the plan shall indicate appropriate measures for the preservation of the values which qualify the site for such designation.
9. Contour lines at the interval specified by the Town Engineer, showing elevations in relation to mean sea level.
10. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
11. An indication of the type of sewage disposal to be used in the subdivision.



For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

(Text to be deleted is shown with a strikethrough, text to be added is shown with an underline)

- a. When sewage disposal is to be accomplished by connection to the public sewer, a written statement from the Freeport Sewer District, stating that the District has the capacity to collect and treat the wastewater, shall be provided.
  - b. When sewage disposal is to be accomplished by subsurface wastewater disposal systems, test pit analyses, prepared by a Licensed Site Evaluator, shall be provided. A test pit log and a map at the same scale as the subdivision plan showing the location of all test pits dug on the site shall be submitted.
12. An indication of the type of water supply system(s) to be used in the subdivision.
- a. When water is to be supplied by public water supply, a written statement from the Maine Consumers Water Company or the South Freeport Water District shall be submitted, indicating that there is adequate supply and pressure for the subdivision and that the supplier approves the plans for extensions where necessary. Where the supplier's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the supplier approving the design of the extension shall be submitted.
  - b. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
13. The width and location of any streets, public improvements, or required open space shown upon the official map and the Comprehensive Plan, if any, within the subdivision.
14. If a street will be constructed, applicants shall submit to the Board, as part of the final plan, detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed public and private streets and existing streets within three hundred (300) feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty (50) feet. The vertical scale of the profile shall be one inch equals no more than five (5) feet. The plans shall include the following information:
- a. Date, scale, and north arrow, indicating magnetic or true north.
  - b. Intersections of the proposed street with existing streets.
  - c. Roadway and right-of-way limits including edge of pavement, edge of shoulder, sidewalks, and curbs.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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- d. Kind, size, location, material, profile, and cross-section of all existing and proposed drainage structures and their location with respect to existing natural waterways and proposed drainage ways.
  - e. Complete curve data for all horizontal and vertical curves.
  - f. Turning radii at all intersections.
  - g. Centerline gradients.
  - h. Size, type, and locations of all existing and proposed overhead and underground utilities including, but not limited to, water, sewer, electricity, telephone, lighting, and cable television.
15. If a private street is constructed, a road maintenance agreement shall be submitted outlining maintenance and financial responsibilities of lot owners using the road. The road maintenance agreement shall be reviewed and approved by the Town Attorney.
  16. The location of any open space to be preserved and a description of proposed improvements and its management.
  17. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the applicant or lot owners are to be maintained, shall be submitted. If open space or other land is to be offered to the municipality, written evidence that the municipal officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
  18. The location and method of disposal for land clearing and construction debris.
  19. For subdivisions that disturb between 5,000 and 43,559 square feet of land, an erosion and sediment control plan prepared in accordance with the *Maine Erosion and Sediment Control Practices, Field Guide for Contractors* published by the Maine Department of Environmental Protection, dated 2014 or most recent revision and approved by the Town Engineer, or their designee.
  20. For subdivisions that disturb one or more acres of land, including phased subdivisions where all disturbance exceeds one or more acres even if no single phase will disturb one or more acres of land, the Erosion and Sediment Control Plan associated with the Maine Department of Environmental Protection Chapter 500 application or Maine Construction General Permit Application.

## APPENDIX E

### Additional Information May Be Requested – Major and Minor Subdivisions

The Board may require additional information including, but not limited to, the following, to be submitted where it finds it necessary in order to determine whether the criteria of Title 30-A M.R.S.A §4404 are met:

1. A high intensity soil survey by a Certified Soil Scientist.
2. A hydrogeologic assessment prepared by a Certified Geologist or Registered Professional Engineer, experienced in hydrogeology. The Board may require a hydrogeologic assessment when the subdivision is not served by public sewer and,
  - a. Any part of the subdivision is located over a mapped sand and gravel aquifer, or
  - b. The subdivision has an average density of more than one dwelling unit per one hundred thousand (100,000) square feet, or
  - c. In other cases where site considerations or development design indicate greater potential of adverse impacts on ground water quality, such as extensive areas of shallow to bedrock soils, cluster developments in which the average density is less than one dwelling unit per one hundred thousand (100,000) square feet but the density of the developed portion is in excess of one dwelling unit per eighty thousand (80,000) square feet, or the use of shared or common subsurface wastewater disposal systems.

The hydrogeologic assessment shall be conducted in accordance with the provisions of Section 11.12.A.1.

3. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates used shall be taken from *Trip Generation Manual*, published by the Institute of Transportation Engineers, 1997. Trip generation rates from other sources may be used if the applicant demonstrates that these sources better reflect local conditions.
4. A traffic-impact analysis. The Board may require an analysis for projects involving forty (40) or more parking spaces or projected to generate more than four hundred (400) vehicle trips per day based upon the ITE *Trip Generation Manual*. The traffic-impact analysis shall be prepared by a Registered Professional Engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peakhour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.

5. A storm water management plan, prepared by a registered professional engineer in accordance with the *Maine Stormwater Management Design Manual*, published by the Maine Department of Environmental Protection, dated 2016, or most recent revision.

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## APPENDIX F

### Preliminary Plan Submission Requirements for Major Subdivisions

1. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
2. The names and addresses of the record owner, applicant, and individual or company who prepared the plan, and adjoining property owners.
3. The date the plan was prepared, north point, and graphic map scale.
4. The zoning district in which the proposed subdivision is located, and the location of any zoning boundaries affecting the subdivision.
5. Verification of right, title, or interest in the property.
6. A copy of the most recently recorded deed for the parcel. A copy of all deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property.
7. A copy of any deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
8. A standard boundary survey of the parcel, giving complete descriptive data by bearings and distances, made and certified by a registered land surveyor. The corners of the parcel shall be located on the ground and marked by monuments.
9. Historic resources and significant natural features, including topography, areas of steep slope, wetlands, vernal pools, 100-year floodplains, swales, rock outcroppings, vegetation, existing utilities, and other site features, as indicated on the Site Analysis Map.
10. Existing and *approximate* proposed lot lines, lot areas, any existing easements, and rightsof-way. The boundaries of conservation lands shall be indicated.
11. *Approximate* location, alignment, width, and tentative names of all existing and proposed streets and street rights-of-way, including all street extensions or spurs that are reasonably necessary to provide adequate street connections and facilities to adjoining development or undeveloped areas.
12. *Approximate* location of proposed swales, drainage easements, and storm water and other management facilities.

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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13. Where public sewage service is to be provided, the conceptual layout of proposed sewage systems, including but not limited to, the tentative locations of sewer mains, together with a written statement from the Freeport Sewer District stating that it has the capacity to collect and treat the sewage generated.
14. Where public water service is to be provided, the conceptual layout of proposed water distribution facilities including water mains, fire hydrants, storage tanks, and, where appropriate, wells or other water sources, together with a written statement from the utility providing the service indicating that there is adequate supply and pressure for the subdivision and that the supplier approves the plans for extensions where necessary. Where the supplier's supply line is to be extended, a written statement from the Fire Chief, stating approval of the location of fire hydrants, if any, and a written statement from the supplier approving the design of the extension shall be submitted. When water is to be supplied by private wells, evidence of adequate ground water supply and quality shall be submitted by a well driller or a hydrogeologist familiar with the area.
15. Location of all soil tests pits as may be required under this ordinance, including all failed test sites or pits, as well as those approved. All approved sites shall be clearly distinguished from unapproved sites.
16. Limit-of-disturbance line (must be exact in relation to the retention of existing trees proposed to be saved).
17. *Approximate* location and dimensions of proposed playgrounds, public buildings, public areas, and parcels of land proposed to be dedicated or reserved for public or private open space.
18. If land to be subdivided lies partly in or abuts another municipality, the applicant shall submit information concerning the location and conceptual design of streets, layout, and size of lots and provisions of public improvements on land subject to applicant's control within the adjoining municipalities. The design of public improvements shall provide for a smooth, practical transition where specifications vary between municipalities. Evidence of approval of this information by appropriate officials of the adjoining municipalities also shall be submitted.
19. Where installation of the improvements is proposed to be done in phases, the applicant shall submit with the Conceptual Preliminary Plan a delineation of the proposed sections and a schedule of deadlines within which applications for final approval of each section is intended to be filed.
20. Typical street cross-section drawing(s) for all proposed streets shall be shown, including details relating to thickness, crowning, and construction materials.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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21. The exact locations of existing utility easements and *approximate* locations of proposed utility easements.
22. Approximate locations of existing vegetation to be retained.
23. For subdivisions that disturb between 5,000 and 43,559 square feet of land, an erosion and sediment control plan prepared in accordance with the *Maine Erosion and Sediment Control Practices Field Guide for Contractors* published by the Maine Department of Environmental Protection, dated 2014 or most recent revision and approved by the Town Engineer, or their designee.
24. For subdivisions that disturb one or more acres of land, including phased subdivisions where all disturbance exceeds one or more acres even if no single phase will disturb one or more acres of land, the Erosion and Sediment Control Plan associated with the Maine Department of Environmental Protection Chapter 500 application or Maine Construction General Permit Application.

## APPENDIX G

### Community Association Documents and Conservation Ownership and Management Plan Submission Requirements

1. A description of all lands and facilities to be owned by the Community Association. This description shall include a map of the proposal, highlighting the precise location of those lands and facilities.
2. Statements setting forth the powers, duties, and responsibilities of the Community Association, including the services to be provided.
3. A Declaration of Covenants, Conditions, and Restrictions, giving perpetual easement to the lands and facilities owned by the Community Association. The Declaration shall be a legal document that also provides for automatic Association membership for all owners in the subdivision or land development and shall describe the mechanism by which owners participate in the Association, including voting, elections, and meetings. Furthermore, it shall give power to the Association to own and maintain the common property and to make and enforce rules.
4. Statements prescribing the process by which Community Association decisions are reached and setting forth the authority to act.
5. Statements requiring each owner within the subdivision or land development to become a member of the Community Association. Statements setting cross covenants or contractual terms binding each owner to all other owners for mutual benefit and enforcement.
6. Requirements for all owners to provide a pro rata share of the cost of the operations of the Community Association.
7. A process of collection and enforcement to obtain funds from owners who fail to comply.
8. A process for transition of control of the Community Association from the developer to the unit owners.
9. Statements describing how the lands and facilities of the Community Association will be insured, including limit of liability.
10. Provisions for the dissolution of the Community Association, in the event the Association should become unviable.
11. The boundaries, acreage, and proposed ownership of all proposed conservation areas and provisions for the management of open space detailing the entities responsible for



For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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maintaining various elements of the property and describing management objectives and techniques for each part of the property.

12. In addition, for any proposed Affordable Housing Development:

- a Restrictive covenants and/or an extended use agreement addressing the affordability standards set forth in Section 536 of the Zoning Ordinance, which must run with the land and encumber the Affordable Housing Development, be binding upon the developer (for rental housing) or the unit owners (for owned housing) and their successors and assigns, and inure to the benefit of and be enforceable by the Town of Freeport and a third party acceptable to the Project Review Board.
- b Provision for the long-term maintenance, repair, and improvement of any (i) individual private septic system, (ii) comparable sewer systems, (iii) individual private wells, and (iv) public water systems proposed to serve the units within the Affordable Housing Development, including a process of collection and enforcement to obtain capital improvement funds from the developer (for rental housing) or the unit owners (for owned housing).

~~11.~~

## APPENDIX H

### **The Final Major Subdivision Plan Submission Requirements shall include at least the following information:**

1. The information shown on the recording plan.
2. If different from those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
3. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
4. The boundaries of any flood hazard areas and the 100-year flood elevation as depicted on the municipality's Flood Insurance Rate Map, shall be delineated on the plan.
5. An indication of the type of sewage disposal to be used in the subdivision. When sewage disposal is to be accomplished by connection to the public sewerage system, a written statement from the Freeport Sewerage District shall be submitted indicating the district has reviewed and approved the sewerage design.
6. An indication of the type of water supply system(s) to be used in the subdivision. When water is to be supplied by Aqua Maine or the South Freeport Water District, a written statement from the supplier shall be submitted indicating the supplier has reviewed and approved the water system design, together with a written statement from the Fire Chief approving all hydrant locations or other fire protection measures deemed necessary.
7. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
8. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the municipality of all public ways and open spaces shown on the plan, and copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be maintained shall be submitted. If proposed streets and/or open spaces or other land is to be offered to the municipality, written evidence that the Municipal Officers are satisfied with the legal sufficiency of the written offer to convey title shall be included.
9. Street plans shall include detailed construction drawings showing a plan view, profile, and typical cross-section of the proposed public and private streets and existing streets within three hundred (300) feet of any proposed intersections. The plan view shall be at a scale of one inch equals no more than fifty (50) feet. The vertical scale of the profile shall be

For 12/13/23 Planning Board Public Hearing

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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one inch equals no more than five (5) feet. The plans shall include the following information:

- a. Date, scale, and north arrow, indicating magnetic or true north.
  - b. Intersections of the proposed street with existing streets.
  - c. Roadway and right-of-way limits, including edge of pavement, edge of shoulder, sidewalks, and curbs.
  - d. Kind, size, location, material, profile, and cross-section of all existing and proposed drainage structures and their location with respect to existing natural waterways and proposed drainage ways.
  - e. Complete curve data for all horizontal and vertical curves.
  - f. Turning radii at all intersections.
  - g. Centerline gradients.
  - h. Size, type, and locations of all existing and proposed overhead and underground utilities including, but not limited to, water, sewer, electricity, telephone, lighting, and cable television.
10. If a private street is constructed, a road maintenance agreement shall be submitted outlining maintenance and financial responsibilities of lot owners using the road. The road maintenance agreement shall be reviewed and approved by the Town Attorney.
  11. A storm water management plan, prepared by a registered professional engineer in accordance with the *Storm Water Management for Maine: Best Management Practices*, published by the Maine Department of Environmental Protection, 1995. The Board may not waive submission of the storm water management plan unless the subdivision is not in the watershed of a great pond, the proposed subdivision will not involve grading which changes drainage patterns, and the addition of impervious surfaces such as roofs and driveways is less than five percent (5%) of the area of the subdivision.
  12. An erosion and sedimentation control plan prepared in accordance with the *Maine Erosion and Sedimentation Control Handbook for Construction: Best Management Practices*, published by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, March 1991. The Board may waive submission of the erosion and sedimentation control plan if: 1) The project will not involve grading which changes drainage patterns, and 2) The addition of impervious surfaces such as roofs and driveways is less than five percent (5%) of the area of the subdivision.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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13. The width and location of any streets or public improvements or open space shown upon the official map and the Comprehensive Plan, if any, within the subdivision.
14. A list of construction items, with cost estimates, that will be completed by the applicant prior to the sale of lots, and evidence that the applicant has financial commitments or resources to cover these costs.
15. The location and method of disposal for land clearing and construction debris.

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**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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**APPENDIX I**

(Bank Letterhead)

**IRREVOCABLE LETTER OF CREDIT**

Date

Letter of Credit No.

Town of Freeport  
30 Main Street  
Freeport, Maine 04032-1209

Gentlemen:

We, [Name of Bank](the “Bank”), hereby open our Irrevocable Letter of Credit in favor of the Town of Freeport (the “Town”) in the original amount of \_\_\_\_\_ (\$) for the account of [Developer] (such amount is herein called the “Stated Amount”).

We hereby irrevocably authorize you to draw on us in accordance with the terms and conditions hereinafter set forth, by a sight draft in the aggregate amount not exceeding the Stated Amount. Partial drawings under this Letter of Credit are permitted.

Subject to the foregoing and the further provisions of this Letter of Credit, a demand for payment may be made by you by presentation of your sight draft, accompanied by your certificate in the form of Annex A hereto to the effect that [state conditions secured by Letter of Credit: for example, “Developer has failed to complete construction of subdivision road prior to required completion date.”]

A sight draft under this Letter of Credit must bear on its fact the clause:

“Drawn under Letter of Credit Number \_\_\_\_\_”

The demand for payment hereunder shall not exceed the Stated Amount.

Demand for payment under this Letter of Credit may be made prior to expiration at any time during the Bank’s business hours at its office at [Bank address] on a day on which you and the Bank’s office are open for the purpose of conducting commercial banking business (a “Business Day”). Any demand for payment and all other communications to the Bank relation to this Letter of Credit shall be in writing and addressed and presented to [Bank officer], as its office at [Bank address] and shall make specific reference to this Letter of Credit by number. If demand for payment is made by you hereunder before 4:00 P.M., prevailing time, on a Business Day and provided that such demand for payment conforms to the terms and conditions hereof, payment shall be made to you of the amount demanded, in immediately available funds not later than 10:00 A.M., prevailing time, on the next succeeding Business Day.

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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This Letter of Credit, including the attached Annex A., sets forth in full the terms of our undertaking and this undertaking shall not in any way be amended or amplified by reference to any document, instrument, or agreement referred to herein (except the Uniform Customs defined below) or to which this Letter of Credit relates and, in any such reference, shall not be deemed to incorporate herein by reference any document, instrument or agreement.

This Letter of Credit is not transferable.

Except as otherwise expressly stated herein, this Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits (1993 Revision), International Chamber of Commerce Publication Number 500, and any subsequent revisions thereof approved by the International Chamber of Commerce (the “Uniform Customs”). As to matters not governed by the Uniform Customs and as to the obligations of the Bank upon presentation of a sight draft by the Town, this Letter of Credit shall be governed by and construed in accordance with the laws of the State of Maine.

This Letter of Credit shall expire on the Bank’s close of business at its office in [Bank address] on the earlier to occur of:

- (a) 4:00 P.M., Prevailing Time, on [at least 30 days after deadline for completion of improvements] or, if that date is not a Business Day, on the first Business Day after that date; or
- (b) the date on which we receive a certificate from the Town that no amounts are due [under stated conditions.]

Very truly yours,

Bank  
By: \_\_\_\_\_  
Title

**For 12/13/23 Planning Board Public Hearing**

Proposed amendments to Chapter 25 – Subdivision Ordinance related to LD 2003 and to M.R.S. 30-A §4404 (additional State approval standards)

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**ANNEX A**

(To Letter of Credit Number \_\_\_\_\_)

Certificate of the Town of Freeport

[Bank]

Attention: [Bank]

**Re: Irrevocable Letter of Credit Number** \_\_\_\_\_

Gentlemen:

The undersigned, being duly authorized officer of the Town of Freeport, hereby certifies to [Bank] as follows:

- A. The amount of \$ \_\_\_\_\_ is due and payable to the Town of Freeport because [state conditions in default].
- B. The undersigned is making demand for payment under the Letter of Credit identified above in the amount of \$ \_\_\_\_\_.

IN WITNESS WHEREOF, the undersigned, a duly authorized officer of the Town of Freeport, has executed and delivered this Certificate this \_\_\_\_\_ day of \_\_\_\_\_ 200 \_\_\_\_.

**TOWN OF FREEPORT**

By: \_\_\_\_\_  
Its  
Duly Authorized