

## ARTICLE 8. DEVELOPMENT REQUIREMENTS

### A. SITE INVENTORY AND ANALYSIS – REQUIRED CONTENTS

The site inventory and analysis are intended to provide both the applicant and the Planning Board with an understanding of the site and the opportunities and constraints to its use created by both the natural environment and the built environment. It is anticipated that by requiring this analysis, that the resulting development plan will reflect the conditions of the site and that those areas most suitable for the proposed use will be utilized, while those that are not suitable or with significant constraints will be avoided to the maximum extent possible. Therefore, the submission requirements provide that both basic information about the site and an analysis of that information be submitted. The site inventory and analysis submission shall contain, at a minimum, the following information:

- ~~1. The names and addresses of the record owner and the applicant~~
- ~~2. The names and addresses of all consultants working on the project~~
- ~~3. Payment for all abutter mailings and for two (2) notices in a local paper. The town will notify all abutters within five hundred (500) feet of all property boundaries.~~
- ~~4. Evidence of right, title, or interest in the property.~~
- ~~5. Evidence of payment of the processing fee and evidence of full payment or of arrangements for payment of the utilities impact fee.~~
- 6.1. Eight (8) copies One (1) hard copy and one (1) digital copy** of an accurate scale inventory plan of the parcel at a scale of not more than one hundred (100) feet to the inch showing as a minimum:
  - a. the name of the development, north arrow, date and scale;
  - b. the boundaries of the parcel;
  - c. the relationship of the site to the surrounding area;
  - d. the percentage of slope of the property and at which direction;
  - e. major natural features of the site and within one thousand (1,000) feet of the site, including wetlands, streams, ponds, flood plains, groundwater aquifers, significant wildlife habitats, including deer wintering areas, or other important natural features (if none, so state);
  - f. existing buildings, structures, or other improvements on the site (if none, so state);
  - g. existing restrictions or easements on the site (if none, so state);
  - h. the location and size of existing utilities or improvements servicing the site (if none, so state);
  - i. ~~a class B high intensity soil survey if on-site sewage disposal is proposed or any portion of the site is located in a resource protection district or wetland, or a class D medium intensity soil survey for other uses.~~ **a document demonstrating that there are adequate soils for an onsite wastewater disposal system for requested activities.**
- ~~7. Eight (8) copies~~ **One (1) hard copy and one (1) digital copy** of a narrative describing the existing conditions of the site, the proposed use and the constraints or opportunities

created by the site. This submission should include any traffic studies, utility studies, market studies or other preliminary work that will assist the Planning Board in understanding the site and the proposed use.

8. ~~Eight (8) copies~~ **One (1) hard copy and one (1) digital copy** of a site analysis plan at the same scale as the inventory plan (~~see [4] above~~) highlighting the opportunities and constraints of the site. This plan should enable the Planning Board to determine which portions of the site are unsuitable for development or use, which portions of the site are unsuitable for on-site sewage disposal if public sewerage is not available, which areas of the site have development limitations (steep slope, flat, soil constraints, wetlands, aquifers, wildlife habitat, scenic vistas, flood plains, drainage, etc.) which must be addressed in the development plan, areas where there may be off-site conflicts or concerns (i.e., noise, lighting, traffic, etc.) and areas well suited to the proposed use.

9. Any requests for waivers from the submission requirements for the development review application.

## **B. DEVELOPMENT REVIEW APPLICATION SUBMISSION REQUIREMENTS**

Applications for development review shall be submitted to the Planning Board on application forms provided by the Town. The submission shall contain at least the following exhibits and information unless specifically waived in writing by the Planning Board, in accordance with Article 7, Section B of this Ordinance.

### **1. Requirements of All Applications**

All applications for development review shall contain the following information:

- a. ~~Eight (8) copies of the completed application form.~~ **One (1) hard copy and one (1) digital copy of a fully executed and signed copy** of the completed application form.
- b. The name of the proposed development.
- c. ~~Payment for all abutter mailings and for two (2) public notices in a local paper. The town will notify all abutters within five hundred (500) feet of all property boundaries.~~
- d. ~~b.~~ A copy of the Town of Richmond Tax Map showing the parcel to be developed.
- e. ~~c.~~ A copy of the deed to the property, option to purchase the property or other documentation to demonstrate right, title or interest in the property on the part of the applicant.
- f. ~~d.~~ The name, registration number and seal of the land surveyor, architect, engineer and/or similar professional who prepared the plan for a major development.

### **2. Existing Conditions**

Describe existing characteristics of the site:

- a. District and Subdistrict designation of the property and the location of district boundaries.
- b. The bearings and length of all property lines of the property to be developed and the source of this information.

- c. Location, size, and assessment of the adequacy and condition of on-site sewer and water mains, on-site sewage disposal systems, wells, culverts and drains, power and telephone lines, utility poles, public water and sewer service from abutting streets, to meet the needs of the proposed use.
- d. Location, names, and present widths of existing streets and rights-of-way public and/or private within or adjacent to the proposed development.
- e. The location and dimensions of all existing buildings and ground floor elevation drawings. Photographs may be submitted for ground floor elevation drawings. Ground floor elevation drawings must visually represent at least two sides of the building(s) on a vertical plane: front and side view preferred.
- f. The location and dimensions of existing driveways, parking and loading areas and walkways.
- g. Location of intersecting roads or driveways within two hundred (200) feet of the site.
- h. The location of open drainage courses, wetlands, stonewalls, graveyards, fences, and stands of trees, or other buffering. Also other important or unique natural areas and site features, including but not limited to: floodplains, deer wintering areas, significant wildlife habitats, fisheries, scenic areas, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers, historic and/or archaeological resources, together with a description of such features.
- i. The direction of existing surface water drainage across the site with degree of slope.
- j. The location, front view and dimensions of existing signs.
- k. The location and dimensions of any existing easements and copies of existing covenants or deed restrictions, including any from The State of Maine or Utility Companies.
- l. All other information about the site and existing conditions and/or surrounding the site as required by the submission requirements for the site inventory and analysis, if the application required a site inventory and analysis.

### **3. Proposed Development Activity**

A narrative statement including at least the following information:

- a. The location and dimensions of all provisions for water supply and wastewater disposal. Soil test information shall be provided on an HHE-200 form. The applicant shall show evidence of suitable soils for the future replacement or expansion of any on-site sewage disposal system.
- b. The direction of proposed surface water drainage across the site and from the site with an assessment of impacts on downstream properties.
- c. Provisions for handling all solid wastes including hazardous and special wastes and the location and proposed treatment of any on-site collection or storage facilities.
- d. The location and dimensions and materials to be used in the construction of proposed driveways, parking and loading areas, and walkways if any, and any changes in traffic flow onto or off-site.

- e. Proposed landscaping and buffering, if applicable.
- f. The location, width, typical cross-section, grades and profiles of all proposed streets and sidewalks in accordance with the Street Design and Construction Standards Ordinance. **Private roads shall adhere to Article 5 section S of this Ordinance.**
- g. Construction drawings for streets, sanitary sewers, water and storm drainage systems, designed and prepared by a professional engineer registered in the State of Maine.
- h. Copies of applicable State and Federal permits (application, approvals and correspondences relative thereto), provided, however, that the Board may approve development plans subject to the issuance of specified State and Federal approvals and permits where it determines that it is not feasible for the applicant to obtain them at the time of development review.

#### **4. Approval Block**

Spaces shall be provided on the plan for the signatures of the Planning Board and date together with the following words, "Approved: Town of Richmond Planning Board."

#### **5. Minor Developments Not Involving the Creation of Individual Lots or Parcels**

In addition to the information required of all applicants, minor developments ~~and~~ which do not involve the creation of new lots shall include the following additional information:

- a. The location of all building setbacks, yards and buffers required by this Ordinance.
- b. The location and dimensions of all proposed buildings or expansion on the site.
- c. Front and side view of ground floor elevation drawings of all proposed buildings or expansion on the site. Computer ~~image~~ **image** elevation may be submitted for drawing.
- d. Location, front view, materials, and dimensions of proposed signs together with the method for securing the sign.
- e. Location and type of exterior lighting.

#### **6. Minor Developments Involving Only the Creation of Individual Lots or Parcels**

In addition to the information required of all applicants, ~~projects~~, minor developments which only involve the creation of new lots shall include the following additional information:

- a. A subdivision plan prepared by a registered land surveyor and meeting the standards of the Maine Association of Land Surveyors and showing at a minimum:
  - i. the location of all existing and proposed lot lines ~~include~~ **including** bearings and distances.
  - ii. street lines including the bearings and distances of all lines, the deflection of angles, radius, length of curves, central angles of all curves, and the tangent distances.
  - iii. the area in square feet of each lot.
  - iv. the street frontage of each lot.

v. ~~the lot numbers of each lot. in accordance with the prevailing policy on existing tax maps.~~

vi. the location, dimensions, and purposes of all easements, areas reserved for or dedicated to public use and areas reserved by the applicant.

vii. The location and description of permanent markers.

b. Written copies of easements, restrictions, covenants or offers of dedication.

c. Any other information required of major developments identified by the Planning Board as being necessary for adequate review of the project.

## 7. Extractive Activities

Applications involving the extraction of earth materials shall submit the following information in addition to the information required of all developments:

a. The development plan prepared by a registered land surveyor or registered professional engineer and showing:

i. the existing contours of the land within and extending beyond the above boundaries for two hundred (200) feet at intervals not to exceed five (5) feet referred to Mean Sea Level;

ii. the contours as proposed following completion of the operation at intervals not to exceed five (5) feet referred to Mean Sea Level;

iii. the location of all proposed access roads and temporary structures;

iv. the proposed provisions for drainage and erosion control, including drainage calculations; and

v. other information necessary to indicate the physical characteristics of the proposed operation.

b. A closure plan showing how the site will be reclaimed in accordance with the performance standards of Article 5 of this Ordinance and ~~State Law 38MRS-A~~ **38 M.R.S.A. §490-A, as may be amended.**

c. Written evidence that the appropriate Soil and Water Conservation District has reviewed the plans and finds them in conformance with their standards.

If less than five hundred (500) cubic yards of material is involved, if all slopes affected have less than a ten (10) percent grade, AND if the area under consideration is not subject to erosion or excessive storm water run-off, a written plan prepared by an agent of a qualified professional agency (such as the U.S. Soil Conservation Service or the Cobbossee Watershed District) may be submitted as the required plan.

The Board may require the additional submission of a hydrogeological study to determine the effects of the proposed activity on groundwater movement and quality within the general area.

## 8. Major Developments

In addition to the information required for all applicants and the information required for minor developments in, the application for a major development shall contain the following additional information.

a. Existing and proposed topography of the site at two (2) foot contour intervals, or such other interval as the Planning Board may determine.

- b. A stormwater drainage and erosion control program showing:
- i. the existing and proposed method of handling stormwater run-off.
  - ii. the direction of flow of the run-off through the use of arrows.
  - iii. the location, elevation, and size of all catch basins, dry wells, drainage ditches, swells, retention basins, and storm sewers.
  - iv. engineering calculations used to determine drainage requirements based upon the 25-year 24-hour storm frequency, if the project will cover more than five percent (5%) of the total lot area with impervious surface.
  - v. methods of controlling erosion and sedimentation during and after construction.
- c. A hydrogeological assessment prepared by a geologist licensed by the State of Maine for projects involving common on-site water supply or sewage disposal facilities with a capacity of two thousand (2,000) gallons or more per day.
- d. A utility plan showing provisions for water supply and wastewater disposal, and the location and nature of electrical, telephone, and any other utility services to be installed on the site.
- e. A planting schedule keyed to the site plan and indicating the general varieties and sizes of trees, shrubs, and other plants to be planted on the site.
- f. A traffic impact analysis demonstrating the impact of the proposed project on the capacity, level of service and safety of adjacent streets.
- g. A written statement from the Richmond Utilities District as to the adequacy of the water supply in terms of quantity and pressure for both domestic and fire flows and capacity of the sewer system to accommodate additional wastewater if public water or sewerage will be utilized.
- h. The location of any pedestrian ways, lots, easements, open spaces and other areas to be reserved for or dedicated to public use and/or ownership. For any proposed easement, the developer shall submit the proposed easement language with a signed statement certifying that the easement will be executed upon approval of the development. In the case of any streets or other ways dedicated to public ownership, the developer shall submit a signed statement that he will maintain such streets or ways year-round until they are accepted by the Town.
- i. A copy of such covenants or deed restrictions, if any, as are intended to cover all or part of the tract. Such covenants or deed restrictions shall be referenced on the plan.
- j. Written offers of dedication or conveyance to the municipality, in a form satisfactory to the Town Attorney, of all land included in the streets, highways, easements, parks, or other open space dedicated for public use, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the developer, are to be maintained.
- k. If the development is a condominium or a clustered development, evidence that all requirements relative to establishment of a homeowners' association or

condominium owners' association have been met. If the development is a clustered development, evidence shall be presented that all other requirements of this Ordinance pertaining to clustered development have been met. The submission shall include copies of the by-laws of any homeowners' or condominium association charged with maintaining common spaces and lands. Homeowners' association or condominium documents shall clearly state that the association or condominium shall properly maintain private roadways serving the development after the developer has legally relinquished that responsibility and until such time as the Town may accept them as public ways.

l. Cost of the proposed development and evidence of non-proprietary financial capacity to complete it. This evidence should be in the form of a letter from a bank or other source of financing, including self-financing, indicating the name of the project, amount of financing proposed, and interest in financing the project. This requirement shall not be waived.

m. A narrative and/or plan describing how the proposed development scheme relates to site inventory and analysis if the application is for a major development.

### **9. Requests for Additional Information**

Prior to its final decision, the Planning Board may request evidence and documentation in addition to that required in the application as provided for in this section. This additional information may include:

#### **a. Impact on Community Services**

The Planning Board may request information regarding the development's effect upon existing services and facilities; a list of construction items that will be completed by the developer prior to the sale of lots; and the list of construction and maintenance items that must be borne by the municipality, which shall include, but not be limited to:

Schools, including busing

Road maintenance and snow removal

Police and fire protection

Solid waste disposal

Recreation facilities

Runoff water disposal, drainage ways, and/or storm sewer enlargement with sediment traps

The Board may further request the developer to provide accurate cost estimates to the Town for the above services and the expected tax revenue of the development.

#### **b. Recreation Area**

Depending on the size, nature and location of the development, the Planning Board may request the developer to propose a plan for the provision of land area for recreational use.

Land reserved for park and/or recreational purposes shall be of a character, configuration and location suitable for the particular use intended. A site to be used for active recreation purposes, such as a playground or a play field, should be relatively level and dry. Sites selected primarily for scenic or passive

recreation purposes shall have suitable access. The configuration of such sites shall be adequate with regard to scenic attributes to be preserved, together with sufficient areas for trails, lookouts, etc. where necessary and appropriate.

**C. APPROVAL STANDARDS AND CRITERIA**

**1. Compliance with State Law and Richmond Ordinances**

The Planning Board shall determine that the application meets each of the following criteria. In all instances the burden of proof shall be on the applicant and such burden shall include the project evidence sufficient to support a find that the proposed development:

- a. complies fully with applicable performance standards of Articles 5, and 8 of this Ordinance.
- b. complies fully with all other requirements and standards of this Ordinance and any other applicable Town ordinances, and
- c. for subdivisions, complies fully with the standards of 30-A M.R.S.A. §4404 as currently written as may be amended from time to time.

**2. Shoreland District and Resource Protection District Permit Standards**

After the submission of a complete application to the planning Board, the Board shall approve an application or approve it with conditions if it makes a positive finding based on the information presented that the proposed use:

- a. Will maintain safe and healthful conditions;
- b. Will not result in water pollution, erosion, or sedimentation to surface waters;
- c. Will adequately provide for the disposal of all waste water;
- d. Will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat;
- e. Will conserve shore cover and visual, as well as actual points of access to inland and coastal waters;
- f. Will protect archaeological and historic resources as designated in the comprehensive plan;
- g. Will not adversely affect existing commercial fishing or maritime activities;
- h. Will avoid problems associated with flood plain development and use; and
- i. Is in conformance with the special performance standards as listed in ~~Article 4, Shoreland District~~ **Article 11, Shoreland Zoning**.

**3. Special Exception Standards in the Resource Protection District**

The Planning Board may approve a permit for a single family residential structure in a Resource Protection District, provided that the applicant demonstrates that all of the following conditions are met:

- a. There is no location on the property, other than a location within the ~~R~~Resource Protection District, where the structure can be built
- b. The lot on which the structure is proposed is undeveloped and was established and recorded in the registry of deeds of the county in which the lot is located before the adoption of the Resource Protection District



c. The proposed location of all buildings, sewage disposal systems and other improvements are:

i. Located on natural ground slopes of less than 20%

ii. Located outside the floodway of the 100-year floodplain along rivers and artificially formed great ponds along rivers and outside the velocity zone in areas subject to tides, based on detailed flood insurance studies and as delineated on the FEMA Maps **Area of Special Flood Hazard as defined in Article 3 of this Ordinance**; all buildings, including basements, are elevated at least one foot above the 100-year floodplain elevation; and the development **is** otherwise in compliance with any applicable municipal floodplain ordinance.

~~If the floodway is not shown on the FEMA map it is deemed to be 1/2 the width of the 100-year floodplain~~

d. The total ground-floor area of all principal and accessory structures is limited to a maximum of 1,500 sq feet.

e. All structures, except functionally water-dependent structures, are set back from the normal high-water line or upland edge of a wetland to the greatest practical extent, **but not less than 75 feet in accordance with Article 11, Shoreland Zoning.**

#### **4. Utilization of the Site**

The plan for the development shall reflect the natural capabilities of the site to support development. Buildings and support facilities shall be placed in those portions of the site that have the most suitable conditions for development. Environmentally sensitive areas including but not limited to wetlands, steep slopes, flood plains, significant wildlife habitats, fisheries, habitat for rare and endangered plants and animals, unique natural communities and natural areas, sand and gravel aquifers and natural drainage areas shall be maintained and preserved to the maximum extent. The development shall include appropriate measures for protecting these resources, including but not limited to, modification of the proposed design of the site, timing of construction and limiting the extent of excavation.

#### **5. Access to the Site**

**Shall comply with the Town of Richmond Street Excavation Policy or the State Department of Transportation Highway Driveway and Entrance Rules.**

~~a. Vehicular access to the site shall be on roads, which have adequate capacity to accommodate the additional traffic generated by the development.~~

~~Intersections on major access routes to the site within one-half (1/2) mile of any entrance road which are functioning at a Level of Service of C or better prior to the development will function at a minimum 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.~~

~~No development shall increase the volume to capacity ratio of street providing access to the site to more than 0.80, nor reduce the streets' Level of Service to ("D" or below).~~

~~The Planning Board may approve a development not meeting this requirement if the applicant demonstrates that:~~

- i. ~~A public agency has committed funds to construct the improvements necessary to bring the level of access to this standard, or~~
- ii. ~~The applicant will assume financial responsibility for the improvements necessary to bring the level of service to this standard and will guarantee the completion of the improvements within one (1) year of approval of the project.~~

~~b. Wherever possible, vehicular access to the site shall be arranged to avoid the need to use local residential streets.~~

## **6. Access into the Site**

~~Vehicular access into the development shall provide for safe and convenient access.~~

- a. ~~Sight distance. any exit driveway or proposed street shall provide the minimum sight distance recommended by the Maine Department of Transportation.~~
- b. ~~Hazards. points of access shall be located to avoid hazardous conflicts with existing turning movements and traffic flows.~~
- c. ~~Grade. the grade of any exit driveway or proposed street for a distance of 100 feet from its intersection with any existing street shall be a maximum of 3 percent.~~
- d. ~~Driveways. projects generating 400 or more vehicle trips per 24-hour period shall provide 2 or more separate points of vehicular access into and out of the site.~~
  - i. ~~No use, which generates less than 100 vehicle trips per day, shall have more than 1 two-way driveway onto a single roadway.~~
  - ii. ~~No use, which generates 100 or more vehicle trips per day, shall have more than 2 two-way driveways or 3 driveways in total onto a single roadway.~~
- e. ~~Corner Lots. where a lot has frontage on 2 or more streets, the access to the lot shall be provided to the lot across the frontage and to the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians.~~
- f. ~~Turning Lanes, etc. 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 islands, frontage roads, driveways and traffic controls within public streets.~~
- g. ~~Driveway Depth. access ways shall be of a design and have sufficient capacity to avoid queuing of entering vehicles on any street.~~

## **7. Access Design**

~~The design of driveways or streets providing access to the site shall comply with the standards contained in the Maine Highway Design Manual, 1990; as may be amended from time to time, prepared by the Maine Department of Transportation and provide for safe and efficient movement of vehicles into and out of the development.~~

## **8. Accessway Location and Spacing**

- a. ~~Private access ways shall be located at least fifty (50) feet from the closest unsignalized intersection and one hundred fifty (150) feet from the closest signalized intersection as measured from the point of tangency for the corner to the point of tangency for the accessway. The Planning Board may reduce this~~

~~requirement if the layout of the site does not allow conformance with this standard.~~

~~b. Public streets shall be located at least one hundred fifty (150) feet from the closest intersection as measured from the point of Tangency for the corner to the point of tangency for the new street.~~

~~c. Private accessways into a development shall be separated by a minimum of seventy-five (75) feet where possible.~~

#### **9. Construction Materials/Paving**

~~a. All driveways entering a curbed street shall be curbed with materials matching the street curbing at point of entry. Curbing is required around all raised channelization islands or medians.~~

~~b. All commercial driveways regardless of driveway volume may be required by the Planning Board to be paved with bituminous or stet pavement within thirty (30) feet of the street right-of-way.~~

#### **10 6. Internal Vehicular Circulation**

The layout of the site shall provide for the safe movement of passenger, service and emergency vehicles through the site.

a. Nonresidential projects shall provide a clear route for delivery vehicles with appropriate geometric design to allow turning and backing for WB-40 vehicles.

b. Clear routes of access shall be provided and maintained for emergency vehicles to all portions of the site and shall be posted with appropriate signage.

c. The layout and design of parking areas shall provide for safe and convenient circulation of vehicles throughout the lot and shall prohibit vehicles from backing out onto a street.

d. The road network shall provide for vehicular and pedestrian safety, all season emergency access, snow storage, and delivery and collection services.

#### **11 7. Pedestrian Circulation**

The development plan shall provide for a system of pedestrian circulation within and to the development. This system shall connect with existing sidewalks if they exist in the vicinity of the project. The pedestrian network may be located either in the street right-of-way or outside of the right-of-way in open space or recreation areas. The system shall be designed to link residential units with recreational and commercial facilities, other common facilities, school bus stops and existing sidewalks in the neighborhood.

#### **12 8. Stormwater Management**

Adequate provisions shall be made for a stormwater drainage system, which shall not have adverse impacts on abutting or downstream properties:

a. To the extent possible, the plan shall dispose of stormwater on the land. Stormwater run-off systems shall infiltrate, detain, or retain water falling on the site such that the rate of flow from the site does not exceed that, which would occur in the undeveloped state for a storm of intensity equal to at least a 25-year storm, with a duration equal to the time of concentration.

b. If the outflow volume is greater than that for the undeveloped site, the developer shall demonstrate that downstream channel or system capacity is

sufficient to carry the flow without adverse effects, or shall be responsible for the improvements to provide the required increase in capacity.

c. All natural drainage ways shall be preserved at their natural gradients and shall not be filled or converted to a closed system except as approved by the Planning Board and appropriate state agencies.

d. At the Planning Board's discretion, rights-of-way or easements shall be designated and offered to the Town for all significant components of the stormwater run-off system lying outside of established street lines. The rights-of-way or easements shall have a minimum width of thirty (30) feet for open ditches, streams, or natural drainage courses, conforming substantially to the lines of such watercourse, provided that where a watercourse or detention area is wider than thirty (30) feet, the Planning Board may require a width adequate for maintenance purposes.

e. The system shall be designed to pass upstream flows from the land, as fully developed, generated by a 25-year storm, without surcharging the system.

f. The developer shall maintain all components of the stormwater run-off system unless the system is formally accepted by the Town, or is placed under the jurisdiction of a legally created property owners association whose charter and powers require maintenance of the system, with adequate financing to carry out this responsibility.

g. The biological and chemical properties of the receiving waters shall not be degraded by the storm water run-off from the development site. The use of oil and grease traps in utility hole covers, the use of on-site vegetated waterways, and the reduction in use of deicing salts and fertilizers may be required.

h. The filling of wetlands shall be avoided. Where filling cannot be avoided, the replacement of wetlands and wetland functions (storm damage prevention, flood control, groundwater recharge, filtering of pollutants, protection of fisheries and wildlife habitat) on other parts of the site shall be provided.

### **13 9. Erosion Control**

For all projects, building and site designs shall fit and utilize existing topography and desirable natural surroundings to the fullest extent possible. Filling, excavation and earth moving activity shall be kept to a minimum. Parking lots on sloped areas shall be terraced to avoid undue cuts and fills, and the need for retaining walls. Natural vegetation shall be preserved and protected wherever possible.

During construction, soil erosion and sedimentation of watercourses and water bodies shall be minimized by employing the following practices:

a. The area disturbed by stripping of vegetation, soil removal, and regrading shall be limited ~~in area~~ at any one time.

b. The duration of exposure of the disturbed area shall be kept to a practical minimum.

c. Permanent soil erosion measures for all slopes, channels, or disturbed land area shall be completed within fifteen (15) calendar days after final grading has been completed.

d. When it is not possible to permanently stabilize disturbed land within fifteen (15) days of final grading, temporary soil erosion control measures (plants,

seeding, and/or mulch) shall be implemented within thirty (30) calendar days of exposure of the soil.

e. Until a disturbed area is stabilized, sediment in run-off shall be trapped by the use of debris basins, sediment basins, silt traps, or other acceptable methods.

f. Temporary or permanent watercourses traversing, bordering, or leaving the site shall be designed to limit the water flow to a non erosive velocity.

g. Storage of fill materials within fifty (50) feet of the banks of any stream, intermittent or perennial, or water body shall not be allowed.

h. The top of a cut or the bottom of a fill shall not be closer than ten (10) feet from a property line.

#### **14 10. Water Supply**

The development shall be provided with a system of water supply that provides each use with an adequate supply of water meeting the standards of the State of Maine for drinking water.

a. A public water supply system with fire hydrants shall be installed at the expense of the developer for any development within the service area of the Richmond Utilities District.

b. If a public water supply system is to be used, the developer has secured in writing a statement from the Utilities District that the proposed water supply system conforms with its design and construction standards, will not result in an undue burden on the source or distribution system, and will be installed in a manner adequate to serve domestic water and fire protection needs.

c. Evidence of payment of the Utilities District Impact Fee shall be provided by the developer.

#### **15 11. Utilities**

The development shall be provided with electrical and telephone service adequate to meet the anticipated use of the project.

a. Each utility system has adequate capacity to service the proposed development.

b. All utilities shall be placed underground. The Planning Board may waive this requirement if this is not possible due to unique topographic or geological features of the site, or ~~with in~~ within the village district.

c. Transformer boxes, meters, pumping stations and other components of the utility system which must be located aboveground shall be located so as not to be unsightly or hazardous to the public and will be landscaped or otherwise buffered so as to screen the components from public view.

#### **16 12. Natural Features**

The landscape shall be preserved in its natural state as much as is practical by minimizing tree removal, disturbance and compaction of soil, and by retaining existing vegetation as much as is practical during construction.

a. Extensive grading and filling shall be avoided as much as possible.

b. Cutting of trees on the northerly borders of the development shall be avoided to the extent possible to retain a natural wind buffer.

c. The Planning Board may require a shadow study if it believes the proposed development may interfere with the solar access of adjacent properties.

#### **17 13. Groundwater Protection**

The proposed site development and use shall not adversely impact either the quality or quantity of groundwater available to abutting properties or public water supply systems. Projects involving common on-site water supply or sewage disposal systems with a capacity of two thousand (2,000) gallons per day or greater ~~have demonstrated~~ shall demonstrate that the groundwater at the property line will comply, following development, with the standards for safe drinking water as established by the State of Maine.

#### **18 14. Water and Air Pollution**

The proposed development shall not result in undue water or air pollution.

#### **19 15. Exterior Lighting**

Exterior lighting in the proposed development shall conform to the performance standards of Article 5 section G of this Ordinance. The proposed development shall provide for adequate exterior lighting to provide for the safe use of the development in nighttime hours.

a. Lighting shall be provided in the following areas:

- i. ~~entrances to facilities and recreation areas;~~
- ii. ~~street intersections;~~
- iii. ~~pedestrian crossings; and~~
- iv. ~~entrance roads, unnecessary lighting is discouraged~~

#### **20 16. Waste Disposal**

The proposed development shall provide for adequate disposal of solid wastes and hazardous wastes.

- a. All solid waste shall be disposed of at a licensed disposal facility having adequate capacity to accept the project's wastes.
- b. All hazardous wastes shall be disposed of at a licensed hazardous waste disposal facility and evidence of a contractual arrangement with the facility has been ~~been~~ shall be submitted.

#### **21 17. Landscaping**

The development plan shall provide for landscaping to define street edges, break up parking areas, soften the appearance of the development and protect abutting properties from adverse impacts of the development. The landscaping plan shall comply with ~~general~~ the performance standards of this Ordinance.

#### **22 18. Shoreland Relationship**

The development shall not adversely affect the water quality or shoreline of any adjacent water body. The development plan shall provide for access to abutting navigable water bodies for the use of residents of the development.

#### **23 19. Technical and Financial Capacity**

The applicant shall demonstrate that he or she has the financial and technical capacity to carry out the project in accordance with this Ordinance and the approved plan.

- a. The applicant shall submit evidence from a financial institution or other source of project funding that demonstrates that adequate resources are available to complete the project in accordance with the approved plans.

#### **24 20. Buffering**

The development shall provide for the buffering of adjacent uses where there is a transition from one type of use to another use and to screen service and storage areas. The buffer areas required by the district regulations shall be improved and maintained in accordance with the standards set forth in the ~~general~~ performance standards of this Ordinance.

Required parking and loading spaces for nonresidential uses and multifamily housing, where not enclosed within a building, shall be effectively screened from view by a continuous landscaped area not less than ~~eight~~ **fifteen (15)** feet in width containing evergreen shrubs, trees, fences, walls, ~~beams~~ **berms**, or any combination thereof forming a visual barrier not less than six (6) feet in height along exterior lot lines adjoining all residential properties, except that driveways shall be kept open to provide visibility for vehicles entering and leaving. The Planning Board may reduce or waive this requirement when it determines that such buffering is not necessary or desirable.

#### **25 21. Off-Street Parking**

No off-street parking or loading shall be located in the required front setback unless specifically authorized by this Ordinance. The Planning Board may waive this requirement if it finds that the visual environment will not be adversely impacted by parking or loading in the setback area.

#### **26 22. Historic and Archaeological Resource.**

If any portion of the site has been identified **by the Maine Historical Preservation Commission or the Town of Richmond Comprehensive Plan** as containing historic or archaeological resources, the development shall include appropriate measures for protecting these resources, including but **not** limited to: modification of the proposed design of site, timing of construction, **and** limiting extent of excavation.

#### **D. PROJECT INSPECTION FEE**

~~For all developments involving the construction of public or private streets, water systems serving more than one (1) unit, public or collective sewer systems or stormwater collection systems, the Planning Board may require the posting of a project inspection fee with the Town.~~

~~This fee shall be used by the Town to hire outside professional help to assure that the project is constructed as approved through a program of regular inspections. The fee shall be equal to one (1) percent of the estimated construction costs of the roads, utilities, drainage and other sight improvement costs.~~

~~This fee shall be collected at the town office and deposited in the Planning Board Development Review Trust Account and handled as set forth in subsection 8.D.7.c.~~

#### **E.D. PERFORMANCE GUARANTEE**

The Planning Board may require the applicant to provide 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.

The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Town Engineer, Road Commissioner, Municipal Officers, and/or Town Attorney.

- a. Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- b. A performance bond payable to the Town issued by a surety company, approved by the Municipal Officers or Town Manager;
- c. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Municipal Officers or Town Manager; or
- d. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

#### 1. Contents of Guarantee

The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guarantee to the developer, and a date after which the developer will be in default and the Town shall have access to the funds to finish construction.

#### 2. Escrow Account

A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the municipality, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the applicant, the municipality shall be named as owner or ~~CO-~~ co-owner, and the consent of the municipality shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the sub-divider unless the municipality has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the applicant and the amount withdrawn to complete the required improvements.

#### 3. Performance Bond

A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the sub-divider, and the procedures for collection by the municipality. The bond documents shall specifically reference the development for which approval is sought.

#### 4. Letter of Credit

An irrevocable letter of credit from a bank or other lending institution shall indicate that funds have been set aside for the construction of the subdivisions and may not be used for any other project or loan.

#### 5. Conditional Agreement

The Board, at its discretion, may provide for the applicant to enter into a binding agreement with the municipality in lieu of the other financial performance guarantees.



Such an agreement shall provide for approval of the plan on the condition that no more than four (4) lots may be sold or built upon until either:

- a. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with these regulations and the regulations of the appropriate utilities; or
- b. A performance guarantee, acceptable to the municipality, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

Notice of the agreement and any conditions shall be on the plan, which is recorded at the Registry of Deeds. Release from the agreement shall follow the procedures for release of the performance guarantees contained below.

#### 6. Phasing of Development

The Board may approve plans to develop a project in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed 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.

#### 7. Release of Guarantee

Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction, in part upon the report of the Town Engineer and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

#### 8. Default

If, upon inspection, ~~the Town Engineer finds~~ **it is found** that any of the required improvements have not been constructed, in accordance with the plans and specifications filed as part of the application, ~~he shall so report~~ **it shall be reported** in writing to the Code Enforcement Officer, Municipal Officers and the Board, and the ~~subdivider~~ **sub-divider** or builder. The Municipal Officers shall take any steps necessary to preserve the Town's rights.

#### 9. Improvement Guarantees

Performance guarantees shall be tendered for all improvements involving facilities to be dedicated to the Town, for public and private streets, for water systems serving more than one (1) unit, for public or collective sewer systems, and for storm-water collection systems involving more than one (1) lot or unit, or any of the above facilities which occur off the site of the proposed development.

### **F.E. PLAN REVISIONS AFTER APPROVAL**

No changes, erasures, modifications, or revisions shall be made in any plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first resubmitted and the Planning Board approves any modifications. In the event that the applicant records a plan, without complying with this requirement,

the same shall be considered null and void, and the Board shall institute proceedings to have the plan stricken from the records of the Municipal Officers and the Registry of Deeds. Plan revisions shall be considered new applicants applications for the purpose of gathering complete materials and holding Public Hearings, so that the proper notice is once again offered to the public and Town officials.

The following language shall be part of the application:

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 in the record of the Planning Board proceedings are conditions of the approval. No change from the conditions of approval is permitted unless an amended plan is first submitted to and approved by the Planning Board.

**G.F. AMENDMENTS TO APPROVED PLANS Before Adoption Of This Ordinance**

Any proposed revision to, or expansion of, a project that received development approval in accordance with this article or any subdivision approved by the Planning Board prior to the adoption of this section shall be required to be reviewed by the Planning Board in accordance with the requirements of Article 8, of this Ordinance.

**H.G. PUBLIC ACCEPTANCE OF STREETS, RECREATION AREAS**

The approval by the Planning Board of a development 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, approval of the plan shall not constitute an acceptance by the municipality of such areas. The plan shall be endorsed with appropriate notes to this effect. The Planning 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 recreation area.

**I.H. INSPECTION OF REQUIRED IMPROVEMENTS**

At least ten (10) days prior to commencing construction of required improvements, the subdivided sub-divider shall notify the Town Manager CEO in writing of the time when he proposes to commence construction of such improvements so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Planning Board.

**J.I. CERTIFICATE OF COMPLIANCE**

No parcel, lot or structure shall be conveyed, leased, or occupied or offered for sale, conveyance, lease or occupancy without certification from the Planning Board CEO that all the terms of the approval have been complied with by the applicant.

**K.J. ENFORCEMENT**

This Ordinance shall be enforced by the Building Inspector/Code Enforcement Officer appointed by the Municipal Officers.

**LK. POWERS AND PROCEDURES IN ENFORCING ORDINANCE**

1. It shall be the duty of the Building Inspector/Code Enforcement Officer to enforce the provisions of this ordinance and the provisions of any permits issued pursuant to it. If the Building Inspector/Code Enforcement Officer finds any violations, he shall notify in writing the person responsible for such violation, indicating the nature of the violation, and inform the person of what steps may be taken to avoid this violation. If the Building Inspector/Code Enforcement Officer is not satisfied that reasonable action has been undertaken within seven days of the notice of violation to correct the violation, he may order the person responsible for the violation in writing to discontinue the violation and may further order the discontinuance of other uses of the land, buildings, or structures; and order removal of illegal buildings, structures, or additions or make other orders necessary to avoid damages that may be caused by the violation or that may be necessary to achieve the purposes of this ordinance and to protect the general public health, safety and welfare.

2. If the violation continues or is not corrected after the written order, the Building Inspector/Code Enforcement Officer shall report the violation to the Board of Selectmen who are charged with the further enforcement of this ordinance and the provisions of permits issued pursuant to it. The Board of Selectmen is authorized to take whatever enforcement action it deems necessary and appropriate, including but not limited to instituting any legal proceedings to restrain, correct, remove or punish such violations.

~~3. Any person or corporation who violates any provision of this ordinance or the provision of any permit issued pursuant to this ordinance shall be fined for a civil violation and the fine shall be not less than \$50.00 nor more than \$125.00. Each day such violation continues may constitute a separate violation. Such person or corporation shall also be liable for court costs and reasonable attorney fees incurred by the municipality.~~ **Fine. Any person, including but not limited to a landowner, a landowner's agent or a contractor, who violates any provision or requirement of this Ordinance shall be penalized in accordance with 30-A M.R.S.A. §4452, as may be amended.**

**M.L. CONFORMANCE PRIOR TO BUILDING PERMIT**

No Building Permit for a building or structure on any lot shall be issued to the owner of record thereof, or his authorized agent, until the proposed construction or alteration of a building or structure shall comply in all respects with the provisions of this Ordinance or with a decision rendered by the Board of Appeals or the Planning Board.

**N.M. APPEALS**

- 1. Any person shall have the right to appeal to the Board of Appeals for an administrative appeal from a decision of the ~~Building Inspector~~ **CEO** in the administration of this code. The basis for such appeal shall be that there is an error in an order, requirement, decision or determination of the Building Inspector **which** may be modified or reversed be the Board of Appeals. **The Board shall conduct a de novo review of the administrative appeal. When the Board of Appeals reviews a decision of the Code Enforcement Officer**

the Board of Appeals shall hold a “de novo” hearing. At this time the Board may receive and consider new evidence and testimony, be it oral or written. When acting in a “de novo” capacity the Board of Appeals shall hear and decide the matter afresh, undertaking its own independent analysis of evidence and the law, and reaching its own decision.

2. Any party aggrieved by a decision of the Planning Board may appeal to the Board of Appeals within thirty (30) days of the date of the Planning Board’s written decision, notwithstanding any contrary provision of the Board of Appeals Ordinance. The appeal shall be an administrative appeal and shall not be *de novo*. The Board of Appeals review shall be limited to the Planning Board decision, record and evidence presented to the Planning board. The Appellant’s notice of appeal to the Board of Appeals must list the parts of the Planning board decision that are being appealed and the Board of Appeals shall be limited to the issues listed. The Board of Appeals may grant the appeal only if the Planning Board’s decision is clearly contrary to the Ordinance and/or is not supported by substantial evidence. The Board of Appeals may uphold, reverse or modify the Planning Board Decision or remand it with directions for additional Planning Board action. The Board of Appeals shall issue a written decision with Finding of Facts and Conclusions.

3. Variance Appeals

Any property owner shall have the right to appeal to the Board of Appeals for a variance allowing a relaxation in the terms of this Ordinance when the applicant believes that the enforcement of the terms of this Ordinance will result in an undue hardship as defined by this Ordinance.

4. Appeal Procedure

The procedure for an administrative appeal or variance appeal shall be in accordance with the Board of Appeals Ordinance of the Town of Richmond, Maine.

(END ARTICLE VIII)