

ARTICLE 7 - FINAL PLAN APPLICATION

7.1 Procedure.

A. Within six months after the approval of the preliminary plan, the applicant shall submit __ copies of an application for approval of the final plan with all supporting materials, at least 14 days prior to a scheduled meeting of the Board. Applications shall be submitted by mail to the Board in care of the municipal offices or delivered by hand to the municipal offices. If the application for the final plan is not submitted within six months after preliminary plan approval, the Board shall require resubmission of the preliminary plan, except as stipulated below. The final plan shall approximate the layout shown on the preliminary plan, plus any changes required by the Board.

If an applicant cannot submit the final plan within six months, due to delays caused by other regulatory bodies, or other reasons, the applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board 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

There are two reasons for the six-month requirement. The main one is that frequently there may be a change in membership on the review authority within a six-month period. This provision helps ensure that the individuals on the Board which reviews the final plan are the same that reviewed the preliminary plan. Secondly, if the zoning ordinances or subdivision regulations have substantially changed, it allows the municipality to apply the new standards to a new application, once the six month period has expired.

Section 7.1.A should reflect the actual procedures and personnel that the review authority uses or wishes to use to handle the logistics of setting up agendas for meetings. We recommend 14 days in advance of a meeting, with the idea that the agenda for the meeting will be posted seven days in advance. If applications are submitted to the chairman of the review authority or to the code enforcement officer this section should state so.

Review of a proposed development by a non-municipal jurisdiction, such as the Department of Environmental Protection or the Army Corps of Engineers may occasionally take more than six months. The *Model* allows an applicant to request an extension of the six month filing requirement. The review authority may grant the request when it finds that the applicant has made a diligent effort to be timely and that the zoning ordinance, subdivision regulations or other municipal requirements which control the subdivision have not changed.

ordinances or regulations which may impact on the proposed development have not been amended.

B. All applications for final plan approval for a major subdivision shall be accompanied by a nonrefundable application fee of \$300, payable by check to the municipality. The Planning Board may continue to require the replenishment of the escrow account for hiring independent consulting services to review the application for final plan approval, along with any supporting materials, pursuant to the procedures of section _____.

C. Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:

1. Maine Department of Environmental Protection, under the Site Location of Development Act.

2. Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if an MEPDES wastewater discharge license is needed.

The amount of the final plan application fee should be lower than the preliminary fee, since most of the work of the review is accomplished in the preliminary plan stage. This is the fee charged by the Town of Alfred in 2005. See the discussion in Section 7.1.B regarding fees for the preliminary plan. The escrow account established at that time will still be available for paying for consulting services to assist in reviewing the plan. Therefore, the final plan fee should be based on non-technical costs such as clerical assistance to the review authority.

If the municipality chooses to regulate a nonresidential structure as a subdivision, as permitted by Title 30-A M.R.S.A., §4401, sub-§4, ¶H, Section 7.1.B should include a reference for the fee for units in these types of subdivisions as well.

This provision has been included to provide better coordination between municipal review and any necessary state or federal review. If changes in a plan are required by a state agency, and the plan has already been approved by the municipal review authority, a revised plan would need to be reviewed and approved by the municipal review authority. Coordination of review avoids that potential problem.

Approval of subdivisions by the Department of Environmental Protection may be required under the Site Location of Development Law, generally, if the subdivision contains thirty acres or more and 15 or more lots. In certain municipalities designated by the Department as having advance review capacity, the threshold for residential subdivisions is increased to 15 or more lots with an aggregate land area of more than 100 acres. For non-residential subdivisions, the threshold for review by the Department remains at 5 or more lots on an aggregate of 20 acres.

The Natural Resources Protection Act regulates activities generally within 100 feet of a stream, river, great pond, coastal wetland, freshwater wetland, fragile mountain areas and significant wildlife habitat. The Stormwater Law and Chapter 500 Regulations require a stormwater permit when one acre or more is disturbed. Discharges of waste water into surface water bodies require a license from the Department under the MEPDES (Maine Pollution Discharge Elimination System).

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3. Maine Department of Human Services, if the applicant proposes to provide a public water system.
4. Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized.
5. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
6. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit

If the Board is unsure whether a permit or license from a state or federal agency is necessary, the applicant may be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.

Approval from the Department of Human Services Drinking Water Program is necessary for any water supply system which will have fifteen connections or serve nine dwelling units or more. The Drinking Water Program has taken the position that separate systems, in close proximity and in the same ownership or management, constitute one system and if the total number of lots served exceeds eight, then a license is required.

Any subsurface waste water disposal system which has a design flow of 2,000 gallons per day is required to be reviewed and approved by the Department of Human Services Plumbing and Waste Water Control Program. Generally a system which serves six or more dwelling units will have a design flow exceeding 2,000 gallons per day.

Corps of Engineers approval is required for the placement of fill material into the waters of the United States, including filling wetlands. The Corps has a fairly long list of activities which are covered by nationwide permits and do not require an application and permit to be filed. Starting in 1995, the Corps and the Department of Environmental Protection began coordinating their wetlands permitting procedures so that only a permit from the Department is necessary in most cases.

If the municipal review authority is unsure whether a permit or license from a state or federal agency is necessary, the applicant should be required to obtain a written opinion from the appropriate agency as to the applicability of their regulations.

One word of caution is required here: Municipal review authorities should not assume that review and approval of a subdivision, or part of subdivision, by a state or federal agency necessarily means that the subdivision should be approved by the municipality. In many instances the state or federal agency may have different standards than the municipal standards. As one example, the statutory criteria in the Site Location of Development Act dealing ground water is that a development will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur (Title 38 M.R.S.A., §484, sub-§5). Under the subdivision statute, the municipal review authority must determine that a subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water (Title 30-A M.R.S.A., §4404, sub-§13). The municipal subdivision law does not mention significant aquifers, or unreasonable risks. Applying these two criteria clearly could result in differing decisions for the same project.

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- D. If the preliminary plan identified any areas listed on or eligible to be listed on the National Register of Historic Places, in accordance with Section 6.2.C.23, the applicant shall submit a copy of the plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission prior to submitting the final plan application.
- E. Written approval of any proposed street names from the Town of _____ E911 Addressing Officer.
- F. The Board shall not review any final plan application unless the applicant or applicant's representative attends the meeting. Should the applicant or applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.
- G. Within three days of the receipt of the Final Plan application, the Board, or its designee, shall issue a dated receipt to the applicant.
- H. Within thirty days of the receipt of the final plan application, the Board shall determine whether the application is complete and notify the applicant in writing of its determination. If the application is not complete, the Board shall notify the applicant of the specific additional material needed to complete the application.

A subdivision may not have an undue adverse impact on historic sites (Title 30-A M.R.S.A., §4404, sub-§8). If the area of the proposed subdivision contains or is adjacent to any sites listed or eligible to be listed on the National Register, the *Model* suggests the Maine Historic Preservation Commission be contacted to review the plans and any proposed measures to protect the historic, prehistoric or archeological resources.

This dated receipt is required by Title 30-A M.R.S.A., §4403, sub-§3. A model receipt can be found as Appendix E.

The determination of a complete application within 30 days is required by Title 30-A M.R.S.A., §4403, sub-§3. In determining whether the application is complete, the review authority should merely determine whether all the spaces on the application form are filled out and whether all the items required by the submissions section, below, are present without regard to their quality or whether they meet the standards of the regulations or criteria of the statute. There is no need to begin a substantive review of the application until a complete application has been submitted. A model letter indicating that an application is incomplete can be found as Appendix H.

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- I. Upon determination that a complete application has been submitted for review, the Board shall notify the applicant in writing. The Board shall determine whether to hold a public hearing on the final plan application.

- I. If the Board decides to hold a public hearing, it shall hold the hearing within thirty days of determining it has received a complete application, and shall publish a notice of the date, time and place of the hearing in a newspaper of local circulation at least two times, the date of the first publication to be at least seven days prior to the hearing. In addition, the notice of the hearing shall be posted in at least three prominent places within the municipality at least seven days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the applicant, at least ten days prior to the hearing.

- K. Before the Board grants approval of the final plan, the applicant shall meet the performance guarantee requirements contained in Article 11.

- L. Within thirty days from the public hearing or within sixty days of receiving a complete application, if no hearing is held, 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 for approval

The issuance of a receipt upon the determination of a complete application is required by Title 30-A M.R.S.A., §4403, sub-§3. A model letter can be found as Appendix I.

The statute allows, but does not require the review authority to hold a public hearing. The decision to hold a public hearing on the final plan application should be based upon whether a hearing was held on the preliminary plan application; the attendance at a previous hearing, if held; and whether there may be unresolved issues from the preliminary plan for which public input may be helpful.

The thirty day limit and the newspaper notice are requirements from Title 30-A M.R.S.A., §4403, sub-§4. A model notice can be found as Appendix J. Because most people do not read the legal notices column in the newspaper on a regular basis, the *Model* suggests posting of the notice at prominent places in the municipality, such as the town office, the post office, and the grocery store. The review authority may wish to use the same locations that other municipal notices are posted. The statute does not require mailed notice, but nonetheless, the model does require First Class notice if a hearing is required. The model does not recommend the use of certified mail.

A performance guarantee is an assurance that the required improvements will be installed or constructed as necessary, by the subdivider or the municipality may finish the work at the subdividers expense. Performance guarantees are discussed in more detail in Article 11.

The time limits in this section are dictated by Title 30-A M.R.S.A., §4403, sub-§5. The statute does allow the time limit for a decision to be extended with the agreement of the applicant. A model agreement to extend the time limit for review can be found as Appendix K.

The actual decision-making process itself is very important. The statute (Title 30-A M.R.S.A., §4403, sub-§6) requires the review authority to make findings of fact establishing that the proposed subdivision does or does not meet the criteria. Findings of fact are a

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 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 reasons for any conditions shall be stated in the records of the Board.

7.2 **Mandatory Submissions.**

The final plan shall consist of one or more maps or drawings drawn to a scale of not more than one hundred feet to the inch. Plans for subdivisions containing more than one hundred acres may be drawn at a scale of not more than two hundred feet to the inch provided all necessary detail can easily be read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and ___ full sized paper copies of all the final plan sheets and any supporting documents shall be submitted.

The final plan shall include or be accompanied by the following mandatory

summary of the record before the review authority and a recitation of the information on which the conclusion as to whether the criteria are met. Appendix M is a model notice of a decision that includes sample findings of fact. The importance of making proper findings of fact can not be over emphasized. Without them, a judge can not determine how the reviewing body made its decision, should the case end up in court. The findings of fact must include reasons why the Board found that review standards were met, and should also state what evidence the Board relied upon to determine compliance with each set of standards.

Conditions on an application must be related to meeting ordinance standards. While a particular applicant may agree to an inoffensive standard not specified in the ordinance (such as, ~~all~~ new houses will be white in color), a future board will have no grounds to refuse a future request to remove such a condition from the subdivision later on down the road.

The scale of the plan will be determined by the size of the subdivision and the lot sizes. At one inch per 100 feet, not much over 100 acres will fit onto a sheet of 24 by 36 inch size.

Title 33 M.R.S.A., §652 requires any plan to be recorded at a Registry of Deeds to:

1. Be drawn upon strong linen cloth or polyester film with archival photographic image;
2. Be embossed with the seal of an architect, professional engineer or registered land surveyor;
3. Contain the signature and address of the person who prepared the plan;
4. Provide a space for recording the county, date, time, plan book and page or file number and register's attest; and
5. Provide a title block containing the name of the plan, the record owner's name and address, the location by street and town and date of the plan.

This statute requires the county registrar of deeds to provide for storage and preservation of plans of a maximum size of 24 by 36 inches. The requirement for the plan to be recorded to be embossed, not merely stamped, should be noted in the section below.

Title 30-A M.R.S.A., §4406, sub-§1 requires that the review authority's approval appear in writing on the plan. Two copies of the reproducible original are suggested. The second copy will allow the municipality to make additional paper copies in the future, should it be necessary. If your municipality has no use for a reproducible copy (i.e., no access to a diazo printer), you may want to require only one copy. Three paper copies of the plan, and three copies of the accompanying material are requested in order to provide copies to other municipal officials to review and to have a copy available for the public to review. This

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submissions of information.

- A. Completed Final Plan Application Form and Final Plan Application Submissions Checklist.
- B. Proposed name of the subdivision and the name of the municipality in which it is located, plus the assessor's map and lot numbers.
- C. The number of acres within the proposed subdivision, location of property lines, existing buildings, watercourses, and other essential existing physical features.
- D. 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 sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design shall be submitted.
- D. An indication of the type of water supply system(s) to be used in the subdivision.
 - 1. When water is to be supplied by an existing public water supply, a written statement from the servicing water district shall be submitted indicating the district has reviewed and approved the water system design.

number should be adjusted accordingly to account for the size of your municipal staff or number of consultants.

Once the plan is approved, the assessor(s) and code enforcement officer should each receive one copy for their records. Depending on the size of the staff or number of municipal officials (engineer, public works director, road commissioner, planner) in each municipality, this number should be adjusted. Receiving materials in advance will allow the members of the review authority to become familiar with the application prior to the meeting and will help make the meetings and the review process more efficient.

During preliminary review, the sewer district merely indicated that they could adequately treat the waste water from the proposed subdivision. As part of the final review, the *Model* suggests that they review and approve the design for the sewage system to be installed.

During the preliminary review, the water district merely indicated that they could adequately supply the proposed subdivision with volume and pressure. As part of the final review, the applicant must submit approval of the water system design.

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2. A written statement shall be submitted from the fire chief approving all hydrant locations or other fire protection measures deemed necessary.
 3. 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.
- E. The date the plan was prepared, north point, graphic map scale.
- F. The names and addresses of the record owner, applicant, and individual or company who prepared the plan.
- G. The location of any zoning boundaries affecting the subdivision.
- H. If different than 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.
- I. The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
- J. The location, names, and present widths of existing and proposed streets, highways, easements, buildings, parks and other open spaces on or adjacent to the subdivision. The plan shall contain

This includes approval by the Chief of any alternate sources of water for fire protection such as underground tanks or ponds with dry hydrants.

The statute requires the name and address of the person under whose responsibility the subdivision plat or plan was prepared be shown on the plan.

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. The location, bearing and length of street lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual.

K. Street plans, meeting the requirements of Section 10.15.

L. The width and location of any proposed new streets or public improvements or open space within the subject property that are shown upon the official map, in the comprehensive plan, or Capital Improvements Program, if any.

M. 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 managed and maintained shall be submitted. These may include homeowners' association by laws and condominium declarations. If proposed

An official map and an official map ordinance are mechanisms by which a municipality can lay out future roads or other public facilities in advance of their construction and prohibit development from taking place within the designated right of way. Once adopted, new development would need to be designed as if the future improvements were in place. **Similarly, without having the regulatory control of an official map, if new facilities are called for in the comprehensive plan, new subdivisions should be designed with them in mind.** Few municipalities in Maine have enacted an official map and official map ordinance. If your municipality has not, do not include reference to it in this section. (Note: A zoning map is not the same as an official map.)

The application should clearly identify any areas to be dedicated to public use and/or ownership. If any land is to be given to the municipality there should be a written description of the terms of that dedication and a proposed deed submitted. Someone at the municipal office, whether it is the municipal officers, the manager and/or the municipal attorney should review these documents and comment in writing to the review authority as to their adequacy. The municipal officers or manager may wish to comment on the political or practical aspects of the dedication, while the municipal attorney should comment on the legal adequacy of the offer to convey title, and perhaps the title itself.

If common land and/or facilities are to be retained and managed, the Board needs to find that adequate provisions have been devised in the homeowners' association documents, bylaws, or condominium declaration. The Review Authority should not concern itself with private management issues unrelated to municipal concerns.

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.

N. 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.

O. The location and method of disposal for land clearing and construction debris.

7.3 Required Submissions for which a Waiver May be Granted .

The final plan shall also include or be accompanied by the following information, unless a waiver is requested and granted pursuant to Article 12, Waivers:

A. An erosion and sedimentation control plan prepared in accordance with the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, published by the Maine Department of Environmental Protection and the Cumberland County Soil and Water Conservation District, 1991. The Board may waive submission of the erosion and sedimentation control plan only if

This is required by the statute. Not all Maine municipalities have Flood Insurance Rate Maps (FIRM). If your municipality is only in the emergency phase of the National Flood Insurance Program, a FIRM will not have been published yet. In those municipalities, Section 8.2.P should refer to a Flood Hazard Boundary Map instead.

It should be noted that the statute requires the applicant to determine the hundred year flood elevation and flood hazard boundaries in the subdivision. For most smaller streams the Flood Insurance Study performed by the Federal Emergency Management Agency does not indicate the hundred year flood elevation. Where the flood elevation has not been calculated the flood area is designated on the FIRM as an unnumbered A zone. When any portion of a subdivision is within an unnumbered A zone, the applicant is responsible for calculating the flood elevation. Engineering procedures are published for the proper methodology to follow. The floodplain management coordinator in the State Planning Office can provide assistance.

The first items, A through P listed above, are required at all times for all final plan applications. However, the items in this section D may not be necessary for applicants to submit in all cases. Article 12 sets out a procedure for the applicant to request submission waivers, for permission to be relieved of the responsibility of making the se submissions.

Due to the importance of erosion and sedimentation control in protecting the quality of surface waters, maintaining fisheries habitat, and reducing eutrophication of great ponds, the *Model* suggests that a waiver request may be granted only if the subdivision is not within the direct watershed of a great pond and only if there is minimal development proposed.

Reviewing authorities should seek professional assistance in reviewing erosion and sedimentation control plans. Assistance in reviewing erosion and sedimentation control plans is available from some county soil and water conservation districts. Check with your county conservation district office (see Appendix R for address and phone number) to find

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the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.

- B. A stormwater management plan, prepared by a registered professional engineer in accordance with the most recent edition of *Stormwater Management for Maine: BMPS Technical Design Manual*, published by the Maine Department of Environmental Protection, 2006. Another methodology may be used if the applicant can demonstrate it is equally applicable to the site. The Board may waive submission of the stormwater management plan only if the subdivision is not in the watershed of a great pond, and upon a finding that the proposed subdivision will not involve road construction or grading which changes drainage patterns and if the addition of impervious surfaces such as roofs and driveways is less than 5% of the area of the subdivision.
- C. If any portion of the proposed subdivision is in the direct watershed of a great pond, and meets the criteria of section 10.12.D, the following shall be submitted or indicated on the plan:
- (1) A phosphorus impact analysis and control plan conducted using the procedures set forth in DEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006. The

out what arrangements are possible. The review authority may wish to have the plan reviewed prior to submittal. If the conservation district is willing, add the following to the end of the first sentence of Section 7.3.A, ~~and~~ reviewed by the _____ County Soil and Water Conservation District.+

Due to the importance of storm water management in protecting the quality of surface waters, the *Model* suggests that a waiver request may be granted only if the subdivision is not within the direct watershed of a great pond and only if there is minimal development proposed.

Assistance in reviewing storm water management plans is available from some soil and water conservation districts. Check with your county conservation district office (see Appendix Q for address and phone number) to find out what arrangements are possible. The review authority may wish to have the plan reviewed prior to submittal. If the conservation district is willing, add the following to the end of the first sentence of Section 7.3.B, ~~and~~ reviewed by the _____ County Soil and Water Conservation District."

The Department of Environmental Protection's Division of Watershed Management has identified phosphorus in run-off as the major influence on declining lake water quality. In response, the Legislature added the eighteenth criterion to the statute in 1991. This criterion requires the review authority make a finding that ~~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.+ The phosphorus control standards which must be met by a proposed subdivision are found in Stormwater Standards in Section 10.12. Assistance in reviewing phosphorus control plans is available from the soil and water conservation districts or engineering consultants.

analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures, as required by the Technical Guide.

- (2) A long-term maintenance plan for all phosphorus control measures.
- (3) The contour lines shown on the plan shall be at an interval of no less than five feet.
- (4) Areas with sustained slopes greater than 25% covering more than one acre shall be delineated.

7.4 Final Approval and Filing.

A. No plan shall be approved by the Board as long as the applicant 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 these regulations have been met, and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify in writing its findings of facts and reasons for any conditions or denial. 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 days of the date upon which the plan is approved and signed by the Board shall become null and void.

C. At the time the Board grants final plan

The statute (Title 30-A M.R.S.A., §4404, sub-§10) requires the applicant to have the financial and technical resources to complete the subdivision in accordance with the approved plans. If an applicant is in violation of a previous plan, that may be an indication of the inability or unwillingness to comply with approvals. Some towns have required, as part of the application, a certificate of compliance issued by the code enforcement officer which states that the applicant is in compliance with any prior approvals.

The need for findings of fact and a written decision have already been discussed earlier. The signatures of a majority of the review authority must appear on the plan in order for it to be accepted at Registry of Deeds. The assessors and the code enforcement officer each need to receive a copy of the approved plan so that their records will be complete. The *Model* suggests a requirement that plans be recorded expeditiously after approved, to avoid potential title problems in the future, should the parcel be sold in its entirety.

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approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If any municipal or quasi-municipal department head notified of the proposed subdivision informs the Board that their department or district does not have adequate capital facilities to service the subdivision, the Board shall require the plan to be divided into two or more sections subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision. If the expansion, addition or purchase of the needed facilities is included in the municipality's capital improvements program, the time period of the phasing shall be no longer than the time period contained in the capital improvements program for the expansion, addition or purchase.

- 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 a revised final plan is first submitted and the Board approves any modifications, in accordance with Article __. 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.

Section 8.3.C was written to ensure that a municipality retains the ability to provide an adequate level of service to new subdivisions. This section does not give the review authority the authority to deny an application, but merely require it to be built in phases over a period of time adequate to allow the municipality to plan, finance and build or purchase the necessary capital facilities or equipment. If the improvements necessary have been identified in the capital investment plan and included in a capital improvements program, the review authority may not require the phasing be spread out any longer than the date in the capital improvements program.

The plan that is recorded must be the one that is approved by the review authority. Article 8 sets out the procedures and requirements for amending a previously approved plan. Section 10.1.C allows minor engineering changes without the necessity of bringing the revisions before the review authority. If a municipality discovers that changes were made to a plan between the time it was approved and the time it was recorded, an affidavit may be filed at the Registry of Deeds declaring the plan to be invalid. To ensure proper drafting, assistance should be obtained from the municipal attorney.

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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. Except in the case of a phased development plan, failure to complete substantial construction of the subdivision within five years of the date of approval and signing of the plan shall render the plan null and void. 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.

Acceptance of streets, open space, playgrounds or other facilities may occur only through action of the municipal legislative body. Mere approval of a plan by the review authority does not result in acceptance of the land or facility. In many cases it may be prudent for the subdivider and the municipality to enter into a contract regarding the terms and conditions of the dedication and acceptance. For instance, prior to acceptance of a recreation area, the municipality may wish to see certain improvements made, such as grading and revegetation.

This provision is included in the *Model* to prevent approved subdivisions which are never built from causing conflict with future changes in zoning or other land use regulations. The concept of rights vesting upon the completion of substantial construction is one which has been put forward by the courts. The *Model* defines substantial construction as that which entails no less than 30% of the total costs for the subdivision. This is another reason for the review authority to receive itemized cost estimates as part of the final plan application, as suggested earlier.