

## Section 2 - Resource-based Subdivision Development Regulations

### 2.1. Introduction

#### 2.1.1 Policy

It is the policy of the Town of Edgecomb to allow Resource-based Subdivision Developments in order to maximize use of existing infrastructure, including roads; to implement the Town of Edgecomb Comprehensive Plan, which seeks to preserve Edgecomb's rural character and its lands that are used for agriculture, forestry and traditional recreational uses; and help new development with the traditional open, wooded, agricultural, rural and village landscapes of the community.

This performance standard is intended to implement that policy by providing incentives that afford flexibility to landowners in road and lot layout and design and road frontage requirements. These incentives are designed to encourage greater flexibility and more innovative approaches to housing and environmental design for the development of single and multi-family residential areas that will promote the most appropriate use of land and will preserve, as permanent open space, agricultural or forestry land, important natural features, wildlife habitat, water resources, ecological systems, and historic and scenic areas for the benefit of present and future residents.

#### 2.1.2 Description

A Resource-based Subdivision Development achieves its purposes by reducing the frontage and setback requirements in the Building Code Ordinance and best utilizing existing built infrastructure. In districts where the minimum lot size is greater than two acres, a Resource-based Subdivision may use a two-acre minimum lot size in computing the overall net density of the subdivision. In districts where the minimum lot size is two acres or less, a Resource-based Subdivision shall conform to the lot size requirements of the district in which it is located. A Resource Based Subdivision clusters housing or business structures and uses in those areas where they will have the least impact on identified and/or conservation easements that run with the land. The cluster principle will be applied to Resource-based Subdivision Developments of any size.

#### 2.1.3 Purpose

To qualify as a Resource-based Subdivision Development, the subdivision will achieve by way of illustration but not by way of exclusion any of the following purposes applicable to its specific circumstances:

2.1.3.1 Long term protection and conservation of existing natural and other resources and landscapes identified in the Comprehensive Plan:

2.1.3.1.1 State-defined critical areas, and unique natural features located on the parcel to be subdivided;

2.1.3.1.2 Historic land use patterns and historic structures;

2.1.3.1.3 Existing contiguous undeveloped land and;

2.1.3.1.4 Contiguous stands of trees;

2.1.3.2 Maintenance or establishment of compatibility with surrounding land uses and the overall rural character of the Town as defined by the Comprehensive Plan;

2.1.3.3 Provision of adequate buffers for adjoining properties where needed;

2.1.3.4 Contribution to town-wide open space planning by creating a system of permanently preserved open space, both within large parcels of land and among such parcels throughout the town, and by encouraging linkages between open space areas;

2.1.3.5 Protection of land suitable or actively used for agriculture and forestry uses, particularly where the Resource-based Subdivision Development borders active agricultural or forestry land or land suitable for the same;

2.1.3.6 Conservation of traditional land uses;

2.1.3.7 Attainment of planned coordination in the location of structures.

## 2.2 Administration

2.2.1 The Planning Board for the Town of Edgecomb shall administer these regulations.

2.2.2 The provisions of these regulations shall apply to all of the land area of all proposed Resource-based Subdivision Developments, as defined, located in the Town of Edgecomb.

## 2.3 Procedures for Resource-based Subdivision Development Review

2.3.1 Introduction. The subdivider's application for Resource-based Subdivision Development approval will not be considered complete until a Final Resource-based Subdivision Development Plan, based on a survey, has been submitted to the Planning Board. A subdivider must submit a sketch plan of the proposed Resource-based Subdivision Development Plan as described in Section 2.3.2.1 and 2.3.2.2.

2.3.2 Pre-Application Meeting and Submission of a Sketch Plan.

2.3.2.1 Before submitting an application for Resource-based Subdivision Development approval and the Preliminary Resource-based Subdivision Development Plan, the subdivider or his authorized agent shall appear informally at a regular meeting of the Planning Board to discuss the proposed subdivision.

2.3.2.2 The subdivider shall present to the Board for informal review and comment, a sketch plan of the proposed Resource-based Subdivision Development. The sketch plan shall consist of a rough outline of the proposed Resource-based Subdivision Development, and may be a free-hand, penciled sketch of the parcel.

2.3.2.3 No binding commitments shall be made between the subdivider and the Board at this stage. The purpose of the pre-application meeting shall be to understand what is proposed, what is possible, and what is acceptable.

### 2.3.3 Inspection of the Site.

In order for the Planning Board to be more fully informed about the site, the subdivider shall arrange an inspection of the site with the Planning Board. The on-site inspection may be conducted at or shortly after the time of submission of the sketch plan. The pre-application phase of the application process will not be considered complete until such inspection has been made. The Planning Board may schedule with the applicant additional on-site inspections following submission of either a Preliminary or a Final Resource-based Subdivision Development Plan.

### 2.3.4 Submission of a Preliminary Resource-Based Subdivision Development Plan.

2.3.4.1 Requirements: Written application for approval shall be filed with the Planning Board, together with the Preliminary Resource-based Subdivision Development Plan at a regularly scheduled meeting of the Planning Board. The Preliminary Resource-based Subdivision Development Plan and any supporting documentation shall be submitted in eight copies. The Plan shall be drawn at a scale of not less than 1" = 100' and not greater than 1" = 40'. Sheet size of drawings shall be not less than 20" x 30" nor larger than 24" x 36".

The following information shall be submitted by the applicant: The applicant may request in writing a waiver of requirements not relevant or not of substantial import to his proposal, in which case he shall list them.

#### 2.3.4.1.1 Information on the Applicant:

- a. Name of owner.
- b. Name of Applicant (if other than owner).
- c. If applicant is a corporation, state whether the corporation is licensed to do business in Maine, and attach a copy of the Secretary of State's Registration.
- d. Name of applicant's authorized representative.
- e. Name, address, and registration number of the Licensed Professional Engineer, Licensed Land Surveyor, Licensed Landscape Architect and/or Licensed Architect responsible for preparation of the Subdivision Plan and related documentation.  
*[amended May 17, 2008]*

- f. Address to which all correspondence from the Planning Board should be sent.
- g. Applicant's interest in the parcel to be subdivided, (option, land purchase contract, record of ownership, etc.).
- h. Applicant's interest in any abutting properties.
- i. State whether Preliminary Subdivision Plan covers entire contiguous holdings of applicant or not

#### 2.3.4.1.2 Information on Property to be Subdivided.

- a. Location of property: Book and page (from Registry of Deeds).
- b. Location of Property: Map and Lot (from Assessor's Office).
- c. Boundary survey of the property to be subdivided, and showing any easement or other encumbrances tied to established reference points, and certified by a Licensed Land Surveyor. The plan shall show the names of the owners of abutting properties and those on the opposite side of any road abutting the property. *[amended May 17, 2008]*
- d. Current zoning of property.
- e. Acreage of parcel to be subdivided.
- f. Contour lines at an interval of not more than 2 feet, referenced to U. S. Coastal and Geodetic Survey benchmarks if such exist within 1,000 feet of the property. The Planning Board may permit 5-foot contour intervals in instances where there would be little impact upon existing drainage, and no underground utility systems are to be constructed.
- g. Location and size of existing buildings, water-courses, wetlands, and other essential existing physical features.
- h. Location and size of any existing sewers and water mains, drainage courses, and culverts.
- i. A soils report, prepared by a Licensed Soil Scientist, Geologist or Site Evaluator, identifying soils types and location of soil test areas. There shall be at least one soils test pit per lot. *[amended May 17, 2008]*

#### 2.3.4.1.3 Information on Resource-based Subdivision

- a. Proposed name of Resource-based subdivision.
- b. Number of lots.

- c. Date, north point, graphic map scale.
- d. Proposed lot lines with approximate dimensions and suggested locations of buildings, subsurface sewage disposal systems, and wells.
- e. Location of temporary markers adequately located to enable the Planning Board to locate lots readily and appraise basic lot layout in the field.
- f. Location of all parcels to be dedicated to public use, the conditions of such dedication, and the location of all natural features or site elements to be preserved.
- g. A location map, consisting of a USGS Topographic Map, showing the relation of the proposed subdivision to adjacent properties and to the general surrounding area. The location map shall show all the area within 2,000 feet of any proposed Resource-based Subdivision.
- i. Location, names and widths of existing and proposed streets, highways, easements, building lines, parks and other open spaces. In addition, for Resource-based Subdivision Developments in which the developer proposes a private road, it must comply with Section 2.4.16.1 and the following must be submitted:
  - i. A copy of the bylaws and regulations of the homeowners association.
  - ii. A copy of the covenants setting forth the lot owners' rights, interests, and privileges in the association which will be included in the deed for each lot.
- j. A copy of the legend relating to the above covenants which will appear on the final submission for Resource-based Subdivision Development approval.
- k. Vertical profile of proposed road centerlines drawn at a vertical scale of either 1"= 4' or 1"= 5'; and a typical cross-section of the proposed roadway and storm drainage facilities drawn at a horizontal scale of either 1" = 40' or 1" = 50'. Where the Planning Board deems it appropriate, a vertical profile of existing or proposed stormwater drainage facilities may also be required.
- l. A stormwater management plan in conformance with Section 2.4.5.
- m. An erosion and sediment control plan in conformance with Section 2.4.17.
- n. If the subdivision is in the watershed of a great pond, a phosphorus control plan in conformance with Section 2.4.18.
- o. A description of any restrictive covenants to be placed on the deeds.
- p. In the instance of a condominium development, the applicant shall also be required to submit a draft of the Condominium Declaration and Bylaws.

q. For subdivisions greater than 5 lots that are not served by public sewer, a hydrogeologic assessment prepared in accordance with Section 2.4.19 by a certified geologist or licensed professional engineer experienced in hydrogeology. *[amended May 17, 2008]*

r. Preliminary designs of any bridges or culverts which may be required.

s. Base flood elevation data.

t. The location of significant resources including important deer wintering yards, other important plant or wildlife habitats and areas with visual significance.

u. An owner or his authorized agent shall submit information on the location of the development to the following address:

State Historic Preservation Officer  
Maine Historic Preservation Commission  
55 Capitol Street  
State House Station 55  
Augusta, Maine 04333

Include a request that the Edgecomb Planning Board be notified of any comments. The applicant shall submit to the Planning Board proof of such notification, including a copy of the letter to the State Historic Preservation Officer.

v. For a Resource-based Subdivision Development of six or more dwelling units, a plan for ensuring an adequate on-site water supply for fire suppression, which shall consist of a minimum 10,000-gallon underground storage tank, together with appurtenant piping and hydrants, designed by a licensed professional engineer, or an approved building sprinkler system. The plan shall include any existing or proposed perpetual easements necessary to ensure access to fire fighting water supply or hydrants. *[amended May 17, 2008]*

w. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours and the sight distances for each driveway that intersects an existing or proposed public or private road. For subdivisions that will generate more than 200 vehicle trips per day, a traffic impact analysis prepared by a registered professional engineer with experience in traffic engineering. The analysis shall indicate the expected average daily trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service on the road giving access to the subdivision and neighboring roads that may be affected, and recommended improvements to maintain the desired level of service on the affected roads. Trip generation rates shall be obtained from the latest edition of "Trip Generation", published by the Institute of Transportation Engineers.

x. Other information not indicated above, as specified by the Board on the application form.

### 2.3.5 Issuance of a dated Receipt.

Upon receipt of the Preliminary Resource-based Subdivision Development Plan and the application form, the Planning Board shall issue the subdivider a dated receipt.

### 2.3.6 Public Hearing

In the event that the Planning Board determines to hold a public hearing on the proposed Resource-based Subdivision Development, it shall hold such public hearing within 30 days of having found the Preliminary Resource-based Subdivision Development Plan application complete, and shall cause notice of the date, time and place of such hearing to be given to the subdivider and to be published in a newspaper of general circulation in the municipality in which the Resource-based Subdivision Development is proposed to be located at least two times; the date of the first publication shall be at least seven (7) days before the hearing. At least seven (7) days before the hearing the applicant shall notify abutting property owners, including those located directly across a public or private road from the parcel proposed to be developed, by delivery in person or by registered or certified mail, with restricted delivery and return receipt requested. Service by registered or certified mail shall be complete when the registered or certified mail is delivered and the return receipt signed or when acceptance is refused, provided that the applicant shall file with the Planning Board either the return receipt or, if acceptance was refused, an affidavit that upon notice of such refusal a copy of the notice was sent to the abutter by ordinary mail. If service of the notice is made personally, an affidavit of the person making service shall be filed with the Planning Board stating the time, manner and place of service. The decision to hold a public hearing is discretionary, and in making its decision, the Planning Board may consider the size and type of Resource-based Subdivision Development, the community impact, and whether any written requests for such a hearing have been received.

### 2.3.7 Planning Board Action on the Preliminary Resource Based Subdivision Development Plan.

2.3.7.1 Within 60 days of the issuance of the dated receipt, or within 30 days of the date of a public hearing if one is held, the Planning Board shall notify the applicant in writing either that:

2.3.7.1.1 With the exception of the submission of a Final Resource-based Subdivision Development Plan, the application is a complete application; or,

2.3.7.1.2 In addition to the submission of a Final Resource-based Subdivision Development Plan, there are a number of specific additional materials, which must be submitted to make a complete application. The Planning Board shall list specific additional items that must be submitted in order to make the application complete except for the Final Resource-based Subdivision Development Plan; and/or,

2.3.7.1.3 The Planning Board has determined that there are a number of apparent deficiencies with the proposal, which must be corrected before submission of the Final Resource-based Subdivision Development Plan. The Planning Board shall indicate in writing the nature of these deficiencies. Submission of the Final Resource-based Subdivision Development Plan without correcting these deficiencies shall be grounds for disapproval of the application for Resource-based Subdivision Development approval.

2.3.7.2 In taking such action as described in subsection 2.3.7.1 above, the Planning Board shall make written findings as to whether the proposal satisfies the criteria contained in these regulations and in Title 30-A, M.R.S.A., Section 4404, as amended, which are presented in section 10, and meet one or more of the purposes of the Resource Based Subdivision Developments as presented in section 1.C. In all instances, the burden of proof shall be on the subdivider. The Planning Board shall maintain a permanent record of its action on the Preliminary Resource-based Subdivision Development Plan.

### 2.3.8 Submission of a Final Resource-based Subdivision Development Plan

Within 6 months of the date of Planning Board action on the Preliminary Resource Based Subdivision Development Plan, the subdivider shall submit the Final Resource-based Subdivision Development Plan to the Planning Board with a check for fees as shown on the Fee Schedule. The Final Resource-based Subdivision Development Plan shall consist of one original transparency and six copies of one or more maps or drawings similar to the maps or drawings prepared for Preliminary Resource-based Subdivision Development Plan submission. In addition to all the items required for the Preliminary Resource-based Subdivision Development Plan, unless otherwise indicated by the Planning Board, the following items shall be required as part of the Final Resource-based Subdivision Development Plan submission:

2.3.8.1 Licensed Land Surveyor. The name, registration number, and seal of the registered land surveyor who prepared the Final Resource-based Subdivision Development Plan.

*[amended May 17, 2008]*

2.3.8.2 Streets. The names and lines, lengths of all straight lines, the deflection of angles, radii, length of curves, and central angles of all curves, and tangent distances and bearings.

2.3.8.3 Open Spaces. The designation of all easements, areas reserved for or dedicated to public use, and areas reserved by the subdivider.

2.3.8.4 Lots. The location, bearing, and length of every line, with all lots to be numbered in accordance with local practices.

2.3.8.5 Permanent Reference Monuments. The location of permanent markers set at all lot corners, as shown on the Plan.

2.3.8.6 Performance Bond. A performance bond to secure completion of all public improvements required by the Planning Board and written evidence that the municipal officers are satisfied with the legal sufficiency of such bond.

## Article IV - Subdivision and Site Plan Review Regulations

### Section 2 - Resource-based Subdivision Development Regulations

2.3.8.7 Land Dedication. Written copies of any documents of land dedication and written evidence of irrevocable offers of conveyance of such land to the municipal officers.

2.3.8.8 Approval Space. Suitable space to record on the approved Resource-based Subdivision Development plan the date and conditions of approval, if any. Suitable space to record on the approved subdivision plan the date and conditions of approval, if any. This space shall be similar to the following example:

Approved Town of _____	Planning Board
Signed _____	Chairman
_____	(Space for
_____	all members
_____	to sign)
Date _____	
Conditions _____	

2.3.8.8 Notification of Completed Resource-based Subdivision Development Application.

After the Planning Board has received the Final Resource-based Subdivision Development Plan and all of the information required to be submitted with it, the Planning Board shall notify the subdivider in writing that a completed Resource-based Subdivision Development application has been filed, and shall begin its evaluation.

2.3.8.9 Planning Board Decision on Final Resource-based Subdivision Development Plan.

2.3.8.9.1 The Planning Board shall within 60 days of having received a completed application, or within such other time limit as may be mutually agreed to, issue an order denying or granting approval of the proposed Resource-based Subdivision Development, or granting approval on such terms and conditions as it may deem advisable to satisfy the criteria contained in these regulations and in Title 30-A, M.R.S.A., Section 4404, as amended, which are presented in Section 2.7 and to preserve the public's health, safety, and general welfare. In all instances, the burden of proof shall be upon the subdivider. In issuing its decision, the Planning Board shall make findings of fact establishing that the proposed Resource-based Subdivision Development does or does not meet the provisions of these regulations and Title 30-A, M.R.S.A., Section 4404, as amended, which are presented in Section 2.7.

2.3.8.9.2 Upon approval of the Plan, a majority of the Board shall sign all four copies. The original transparency shall be filed with the Registry of Deeds. One copy shall be retained by the subdivider, one copy shall be retained by the Planning Board, and one copy shall be filed with the Selectmen. The Planning Board shall maintain a permanent record of its action on the Final Plan.

2.3.8.9.3 The Final Resource-based Subdivision Development Plan shall be submitted within 6 months from the date of approval of the Preliminary Resource-based Subdivision Development Plan, or approval of the Preliminary Plan shall become null and void. Construction of an approved Resource-based Subdivision Development shall be commenced within one year from the date of approval of the Final Resource-based Subdivision Development Plan, or approval of the Final Resource-based Subdivision development Plan shall become null and void.

## 2.4 General Requirements

All Resource-based Subdivision Developments shall meet the use standards of the Districts or Areas in which they are located.

2.4.1 Buffer Strip: The Planning Board may require a buffer strip when the proposed subdivision will be located adjacent to a use where separation is desirable.

2.4.2 Basement Drainage. If lots are being created to accommodate structures with basements, the subdivider shall show that the basement can be drained by gravity to the ground surface, or storm sewers, if they are required to be installed, or that the water table is below the level of the basement.

2.4.3 Conformance with Other Laws, Regulations. The proposed subdivision shall be in conformance with all pertinent local, state and federal ordinances, statutes, laws and regulations. If the proposed subdivision meets the definition of subdivision as defined in the Site Location Act, Title 38, M.R.S.A., Section 482, the subdivider must secure the approval of the Board of Environmental Protection and the Planning Board. When a proposed subdivision requires approval of the Planning Board and the Board of Environmental Protection, each review may be conducted simultaneously. However, each review will be conducted independently, and the Planning Board may deny approval of the subdivision even though the Board of Environmental Protection has granted an approval under the provisions of the Site Location Act.

2.4.4 Construction Prohibited. No utility installations, no ditching, grading or construction of roads, no grading of land or lots, and no construction of buildings shall be done on any part of the subdivision until a Final Subdivision Plan has been prepared, submitted, reviewed, approved, and endorsed as provided by these regulations, nor until an attested copy of the Final Subdivision Plan so approved and endorsed has been recorded by the subdivider in the Registry of Deeds. Plans for road construction, grading and ditching shall be reviewed by the Road Commissioner for his recommendations before Planning Board approval.

- 2.4.5 Stormwater Management Facilities. A storm-water management plan, prepared by a licensed professional engineer, shall be designed so that the post-development storm-water runoff does not exceed the pre-development storm-water runoff for the 24-hour duration, 2-, 10-, and 25-year frequency storm events. The storm-water plan shall be prepared in accordance with *Stormwater Management for Maine: Best Management Practices*, latest edition, prepared by the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The storm-water plan shall include the following information for the pre- and post-development conditions: drainage area boundaries, hydrologic soils groups, ground cover type, time of concentration flow paths, modeling methodology, calculations, and background data. The Board may require review and endorsement of the stormwater plan and calculations by the Knox-Lincoln Soil and Water Conservation District. *[amended May 17, 2008]*
- 2.4.6 Easements. The Planning Board may require easements for sewerage, drainage, or other utilities.
- 2.4.7 Guidelines for Reviewing Subdivisions in Subdivision Law. In reviewing any proposed subdivision, the Planning Board shall consider the criteria set forth in the Guidelines contained in the State Subdivision Law, Title 30-A, M.R.S.A., Section 4401-4407, and before granting approval shall determine that they have been or will be met. In all instances, the burden of proof shall rest with the applicant.
- 2.4.8 Lots and Density
- 2.4.8.1 In districts where the minimum lot size is greater than two acres, Resource-based Subdivisions may use a two-acre minimum lot size in computing the overall net density of the subdivision. In districts where the minimum lot size is two acres or less, the Resource-based Subdivision shall conform to the minimum lot size of the district in which it is located in computing the overall net density of the subdivision.
- 2.4.8.2 The lot size, width, depth, shape and orientation and the minimum setback lines shall meet the standards of the districts or areas in which they occur, except as noted in Section 2.4.10 below. In order to increase design flexibility, two or more contiguous parcels of land under the same or different ownership, including parcels separated by a public or private road, may be grouped together as one Resource Based Subdivision Development, if the Planning Board finds that such grouping will benefit the Town and that it helps achieve the purposes set forth in Section 2.1.3.
- 2.4.8.3 Where individual, on-site sewage disposal systems are to be utilized, the size of each lot shall be based on soil characteristics, and shall conform to Section 2.4.11 and to the Minimum Lot Size Guide contained in Appendix 1 of the State of Maine Plumbing Code, Part 11, dated April 25, 1975, as amended.

- 2.4.8.4 Overall net density shall not be greater than the density that would result from the creation of individual, non-clustered lots except as noted in Section 2.4.8.1. Such density shall be calculated by dividing the total acreage within the Resource-based Subdivision Development (including open spaces or common recreational areas) by the number of proposed units.
- 2.4.8.5 A lot for a dwelling unit created as part of a Resource-based Subdivision development shall not be further subdivided.
- 2.4.8.6 A lot for a principal structure created as part of a Resource-based Subdivision Development where such lot shall have within its bounds designated open space shall not be further subdivided unless the original approved plan shall have reserved future development of such lot, but any such further subdivision shall only be made in accordance with this performance standard.

#### 2.4.9 Layout and Siting Standards

The Planning Board shall not approve such portions of any proposed Resource-based Subdivision Development that are located on land below sea level, within the 100-year flood plain, or on land which must be filled or drained, or on land created by diverting a watercourse. In no instance shall the Board approve any part of a Resource-based Subdivision Development located on filled tidal land or filled or drained great ponds.

The building lots on a parcel shall be laid out and the residences and business structures shall be sited so as to maximize the following principles. The Board shall resolve conflicts between the following principles as applied to a particular site:

- 2.4.9.1 In the least suitable agricultural soils and in a manner which maximizes the useable area remaining for the designated open space use, where agricultural, forestry, or recreational, existing or future uses, are particularly sought to be preserved;
- 2.4.9.2 In locations least likely to block or interrupt scenic, historic, and traditional land use views, as seen from public roadways and great ponds;
- 2.4.9.3 Along the far edges of open agricultural fields adjacent to any woodland to reduce any encroachment upon agricultural soils;
- 2.4.9.4 In such manner that the boundaries between residential or business lots and active agricultural or forestry land are well buffered by vegetation, topography, roads, or other barriers to minimize potential conflict between residential or business and agricultural or forestry uses;
- 2.4.9.5 So that individual lots, buildings, street and parking areas shall be designed and situated to minimize alterations of the natural site and to relate to surrounding properties, to improve the view from and of buildings.

## 2.4.10 Space Standards

- 2.4.10.1 Distances between residential structures in multi-family resource based Resource-based Subdivision Development developments shall be a minimum of the height of the tallest structure.
- 2.4.10.2 In areas outside of the Shoreland Zone, the required minimum lot size or minimum land area per dwelling unit may be reduced in Resource-based Subdivision Developments to no less than one-half acre. The required minimum lot size or minimum land area per dwelling unit may not be reduced in Resource-based Subdivision Developments within the shoreland zone. If the lot area is reduced, the total open space in the development shall equal or exceed the sum of the areas by which the building lots are reduced below the minimum lot area normally required in the zoning district except as noted in Section 2.4.8.1.
- 2.4.10.3 Minimum road frontage requirements as specified in the Building Code Ordinance may be waived or modified by the Planning Board provided that adequate access and turnaround to and from all parcels by fire trucks, ambulances, police cars and other emergency vehicles can be ensured by private roads and /or common driveways.
- 2.4.10.4 A reduction of required setback distances may be allowed, provided that the front, side and rear setbacks shall be no less than twenty-five feet or that required for the applicable zoning district, whichever shall be less.

## 2.4.11 Utilities

At the discretion of the Planning Board, in order to achieve the most appropriate design and layout of lots and open space, utilities including individual wells and septic systems may be located in designated portions of the open space, if necessary, provided the same shall not unreasonably interfere with the open space purposes to be achieved under this performance standard and for the particular parcel(s) that is the subject of the application for Resource-based Subdivision Development.

- 2.4.11.1 The Planning Board may waive or modify hydrogeological reviews or studies, if the applicant demonstrates that due to the specific placement of wells and septic systems:
- a. adequate groundwater is available at all locations proposed for individual water systems; and that
  - b. there is no reasonable likelihood that the domestic water supply for any proposed lot will exceed 10 mg/l of nitrates.

2.4.11.2 If a private collection septic system is proposed for a single family clustered development or a multiplex cluster development, the applicant must show either that at least one (1) designated site for each lot, in the open space or on the lot, has adequate soils and land area suitable for subsurface waste disposal for each lot in accordance with the minimum standards set forth in the Maine State Plumbing Code, and that a second designated site on the parcel has the size, location and soil characteristics, to accommodate a system similar to the one originally proposed.

2.4.11.3 If a private central collection system is proposed, the system shall be maintained by a homeowners association or under an agreement of the lot or unit owners in the same fashion required for maintenance of the open space by a Home Owners Association or the lot or unit owners in common and written evidence of said maintenance agreement shall be submitted to the Planning Board.

#### 2.4.12 Open Space Provisions.

In Planning Board review and approval of a Resource-based Subdivision Development, the following requirements shall apply and shall supersede any inconsistent or more restrictive provisions of the Building Code Ordinance or the Subdivision Regulations.

Open space set aside in a Resource-based Subdivision Development shall be permanently preserved as required by this performance standard, except as allowed under this provision for flexible open space and the substitution for and/or the addition to the same, or where open space is dedicated by a landowner under contract with the Town for a term of years as set forth below. Land set aside as permanent open space may, but need not be, a separate tax parcel. Such land may be included as a portion of one or more large parcels on which dwellings are permitted, provided that a conservation easement or a declaration of covenants and restrictions is placed on such land pursuant to Section 2.4.12.3 and provided that the Planning Board approves such configuration of the open space.

##### 2.4.12.1 Open Space Uses

On all parcels, open space uses shall be appropriate to the site. Open space shall include natural features located on the parcel(s) such as, but not limited to, stream beds, significant stands of trees, individual trees of significant size, agricultural land, forested acreage, wildlife habitat, rock outcroppings and historic features and sites. Open space shall be preserved and maintained subject to the following, as applicable:

2.4.12.1.1 On parcels that contain significant portions of land suited to agricultural production, open space shall be conserved for agriculture or other consistent open space uses such as forestry, recreation (active or passive), and resource conservation.

2.4.12.1.2 When the principal purposes of conserving portions of the open space is the protection of natural resources such as wetlands, aquifers, steep slopes, wildlife and plant habitats, and stream corridors, open space uses in those portions may be limited to those which are no more intensive than passive recreation.

2.4.12.1.3 Open space areas shall be contiguous, where possible, to allow linking of open space areas throughout the Town.

2.4.12.1.4 The Planning Board may limit the use of any open space at the time of final plan approval where the Board deems it necessary to protect adjacent properties or uses, or to protect sensitive natural features or resources. A proposed change in use of open space land, other than that specified at the time of plan approval, shall be reviewed by the Planning Board as an amendment to the approved plan.

2.4.12.1.5 Further subdivision of open space or its use for other than agriculture, forestry, recreation or conservation, except for easements for underground utilities, shall be prohibited and shall be so stated by deed restrictions except as provided in Section 2.4.12.3. Structures and buildings accessory to agriculture, recreation or conservation uses may be erected on open space, subject to Planning Board approval under the Site Plan Review Ordinance and this performance standard.

#### 2.4.12.2 Notations on Plan

Open space must be clearly labeled on the Final Plan as to its use or uses with respect to the portions of the open space that such use or uses apply, ownership, management, method of preservation, and the rights, if any, of the owners in the Resource-based Subdivision Development to such land or portions thereof. The Plan shall clearly show that the open space land is permanently reserved for open space purposes, is subject to a reservation for future development, including those provisions allowed under Section 2.4.12 and shall contain a notation indicating the book and page of any conservation easements or deed restrictions required to be recorded to implement such reservations or restrictions.

#### 2.4.12.3 Preservation in Perpetuity

An owner of a parcel of land may designate all or a portion of the parcel for open space use in perpetuity if the purposes set forth in Section 2.1.3 are achieved and all other requirements of this performance standard are met subject to the following conditions:

2.4.12.3.1 A perpetual conservation easement, or declaration of covenants and restrictions, restricting development of the open space land must be incorporated in the open space plan.

2.4.12.3.2 The conservation easement may be granted to, or the declarations may be for the benefit of, a private party, third party or other entity, the Town, with the approval of the Board of Selectmen, or to a qualified not-for-profit conservation organization acceptable to the Planning Board.

2.4.12.3.3 Such conservation easement or declaration of covenants and restrictions shall be reviewed and approved by the Planning Board and be required as a condition of plan approval hereunder.

2.4.12.3.4 The Planning Board may require that such conservation easement, or declaration of covenants and restrictions, be enforceable by the Town of Edgecomb if the Town is not the holder of the conservation easement or beneficiary of the declarations.

2.4.12.3.5 The conservation easement or declarations shall prohibit residential, industrial, or commercial use of such open space land (except in connection with agriculture, forestry, and recreation), and shall not be amendable to permit such use.

2.4.12.3.6 The conservation easement or declarations shall be recorded in the Lincoln County Registry of Deeds prior to or simultaneously with the filing of the Resource-based Subdivision Development final plan in the Lincoln County Registry of Deeds.

#### 2.4.12.4 Ownership of Open Space Land

Open space land may be held in private ownership (which is to be preferred) including an appropriate third party or owned in common by a homeowner's association (HOA); dedicated to the Town, County or State governments or agencies; transferred to a non-profit organization such as a conservation trust, or association, acceptable to the Planning Board; or held in such other form of ownership as the Planning Board finds adequate to achieve the purposes set forth in Section 2.1.3 under the other requirements of this Land Use Ordinance and the Subdivision Regulations.

The appropriate form of ownership shall be determined based upon the purpose of the open space reservation as stated pursuant to Section 2.4.12 above. Unless so determined, or unless deeded to the Town of Edgecomb and accepted by the citizens of the Town at Town Meeting, common open space shall be owned in common by the owners of the lots or units in the development. Covenants for mandatory membership in the association setting forth the owners' rights and interest and privileges in the association and the common land, shall be approved by the Planning Board and included in the deed for each lot.

#### 2.4.12.5 Flexible Open Space and Substitution; Phasing

An applicant for a Resource-based Subdivision Development may at a future time designate other land to serve as the open space for such Resource-based Subdivision Development if the Planning Board finds that the purposes set forth in Section 2.1.3 will better be served by promoting a more innovative design and layout of lots created over time in relation to the area(s) designated as open space if all other requirements under this performance standard may be met and such substitution is specifically allowed in any documentation associated with the open space, conservation easement, or homeowners association. Development that is phased over time, including a schedule over time for either sale of lots or layout of further lots as part of the Resource Based Subdivision Development plan, is encouraged so that more appropriate design of land use and preservation of greater open space may be achieved.

### 2.4.13 Maintenance Standards

2.4.13.1 The Planning Board may require that a proposed Resource-based Subdivision Development design include a landscape plan that will show the preservation of existing trees 10” or more in diameter, the replacement of trees and vegetation, graded contours, streams and the preservation of scenic, historic, or environmentally desirable areas. The street and lot layout shall be adapted to the topography. Extensive grading and filling shall be avoided as much as possible.

2.4.13.2 Where the proposed Resource-based Subdivision Development abuts a lake, pond, river or perennial stream, the Planning Board may require, where feasible and appropriate, that the subdivider reserve an area of land abutting the water body or water course as an open space and/or recreational area for use by property owners in the Resource-based Subdivision Development. The instruments of conveyance (deeds) from the subdivider to the property owner in the Resource-based Subdivision Development shall provide for an access right-of-way to this reserved land. The cost of maintenance and development of the reserved land shall be borne by the property owners of the Resource-based Subdivision Development.

2.4.13.2.1 The property owners may enter into a written agreement with the Selectmen for development and maintenance of the reserved land, but all costs of development and maintenance shall be borne by the property owners of the Resource-based Subdivision Development in the appropriate manner, which may include attaching to the property tax assessment bill a separate item for cost of development and/or maintenance for the designated reserved land. If this method is employed, development and maintenance costs shall be prorated among the property owners of the Resource-based Subdivision Development based upon assessed valuation.

2.4.13.2.2 The manner of providing for the cost of development and/or maintenance of the reserved open space shall be included in the instrument of conveyance to each property owner of the Resource-based Subdivision Development.

### 2.4.14 Performance Bond.

2.4.14.1 The Planning Board may require that the subdivider file with the Board at the time of submission of the Final Plan a performance guarantee in an amount sufficient to defray all expenses of the proposed public improvements. This may be tendered in the form of a certified check payable to the Treasurer of the municipality and issued by a surety company acceptable to the municipality. The conditions and amount of such certified check or performance bond shall be determined by the Planning Board of the municipality with the advice of the municipal officers. The amount shall be at least equal to the total cost of furnishing, installing, connecting, and completing all of the street grading, paving, storm drainage and utilities or other improvements specified on the Final Resource-based Subdivision Development Plan within two years of the date of the certified check or performance bond.

2.4.14.2 The Planning Board may recommend a maximum extension of 12 months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Board and the municipal officers, good cause for such extension. Such recommendation shall be referred to the municipal officers for official action.

2.4.14.3 Before a subdivider may be released from any obligation requiring his guarantee of performance, the Planning Board will require certification from the various municipal officers to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards (state, federal and local codes, ordinances, laws, and regulations).

2.4.14.4 The Planning Board may, at its discretion waive the requirement of a performance bond and recommend a properly executed conditional agreement with the municipality. Such agreement, if executed with the municipality, shall be endorsed in writing on the Final Plan or any part thereof, on the condition that no lot in the Resource-based Subdivision Development may be sold and no permit shall be issued for construction of any building on any lot on any street in the Resource-based Subdivision Development until it shall have been certified in the manner set forth in Section 2.4.14.3 above that all improvements have been made within 2 years or the date of executing such conditional agreement.

#### 2.4.15 Plan Revisions after Approval.

No changes, erasures, modifications, or revisions shall be made in any Final Subdivision Plan after approval has been given by the Planning Board and endorsed in writing on the plan, unless the plan is first re-submitted and the Planning Board approves any modifications, provided, that the Code Enforcement Officer may approve the correction of typographic, arithmetic, and similar errors, by providing a memorandum of such correction to the Planning Board. In the event that the Final Subdivision Plan is recorded without complying with this requirement, the same shall be considered null and void and the Planning Board shall institute proceedings to have the Subdivision Plan stricken from the records of the Selectmen and the Registry of Deeds. *[amended May 17, 2008]*

#### 2.4.16 Street Design and Construction.

2.4.16.1 Streets constructed within subdivisions or to provide access thereto shall conform to the following minimum design standards:

- |            |                    |  |
|------------|--------------------|--|
| 2.4.16.1.1 | Right-of way width | 50'  |
| 2.4.16.1.2 | Pavement width     | 20'  |
| 2.4.16.1.3 | Pavement material: | 2.5" bituminous concrete<br>(1.5" base course and 1.0"<br>surface course) or 1.0"<br>penetrated cutback asphalt<br>surface, 1.0 gal/sq.yd. in<br>two applications. |

2.4.16.1.4 Gravel base	12" extended under shoulder
2.4.16.1.5 Shoulder	4'
2.4.16.1.6 Side Slopes	3' hor. : 1' vert. maximum
2.4.16.1.7 Minimum Grade	0.5%
2.4.16.1.8 Maximum Grade	12.0%
2.4.16.1.9 Minimum angle of street intersections	60 degrees
2.4.16.1.10 Maximum grade within 75' of intersections	3%

Where subdivision streets are to remain private roads, the requirement above titled "Pavement material" shall not be applicable and the following words shall appear on the recorded plan:

"All roads in this subdivision shall remain private roads to be maintained by a road association consisting of all subdivision lot owners and shall not be maintained by the Town or considered for acceptance by the Town until they meet all of the design standards contained in Paragraph 2.4.16.1 above."

2.4.16.2 At the option of the developer the requirements in Section 2.4.16.1.3 may be omitted if :

2.14.16.2.1 The proposed Resource-based Subdivision Development does not contain more than ten (10) lots, and

2.4.16.2.2 The proposed roads in the Resource-based Subdivision Development are not thoroughfares but serve only the lots within the proposed Resource- based Subdivision Development.

2.4.16.3 All subdivisions proposing private roads shall form a homeowners association AND evidence of its accomplishment shall be submitted to the Planning Board within thirty (30) days of approval. No building permit shall be issued prior to the satisfaction of this requirement. The homeowners association shall be governed by the following regulations.

2.4.16.3.1 The organization shall be established by the developer and shall commence operation, with the financial support of the developer if necessary, before the sale of any lot in the development.

2.4.16.3.2 Membership in the association shall be mandatory for all purchasers of lots in the Resource-based Subdivision Development and their successors.

- 2.4.16.3.3 The association shall be responsible for the upkeep, maintenance and repair of all roads in the Resource-based Subdivision Development together with any road related open spaces.
- 2.4.16.3.4 The association shall levy annual charges against all property owners in the Resource-based Subdivision Development to defray the costs of maintenance and repair of all roads and associated open spaces in the Resource-based Subdivision Development.
- 2.4.16.3.5 The association shall have the power to place liens on the property of members who are more than six months in arrears on their annual association charges.
- 2.4.16.3.6 The association shall have or hire adequate staff to maintain and repair the Resource-based Subdivision Development roads.

#### 2.4.17 Erosion and Sediment Control Plan

An erosion and sediment control plan shall be prepared in accordance with the *Maine Erosion and Sediment Control Handbook for Construction: Best Management Practices*, latest revision, prepared by the Cumberland County Soil and Water Conservation District and the Maine Department of Environmental Protection, which is incorporated herein by reference and made a part thereof. The plan shall be prepared either by a professional civil engineer or by a Certified Professional in Erosion and Sediment Control (CPESC). At a minimum, the following items shall be discussed and provided:

- 2.4.17.1 The name, address, and telephone number of the person responsible for implementation of the plan.
- 2.4.17.2 A vicinity map showing the location of water bodies that may be affected by erosion and sedimentation from the project.
- 2.4.17.3 Existing and proposed drainage patterns, including drainage channels that drain to surrounding water bodies.
- 2.4.17.4 A sequence of work that outlines how the project will be constructed and specifically addressing how soil disturbance will be minimized during the construction process.
- 2.4.17.5 Clear definition of the limits of work and any buffer areas that will remain undisturbed and an indication of how these areas will be protected during construction.
- 2.4.17.6 Description of temporary and permanent erosion control practices that will be used.
- 2.4.17.7 Identification of the locations of the temporary and permanent erosion control practices.
- 2.4.17.8 Identification of how and where collected sediment will be disposed.
- 2.4.17.9 Dust control measures.

#### 2.4.17.10 Inspection and maintenance procedures, including schedule and frequency.

The Board may require the review and endorsement of this plan by the Knox-Lincoln Soil and Water Conservation District.

#### 2.4.18 Phosphorus Control Plan

For subdivisions located within the watershed of a great pond, phosphorous export from construction and long term operation shall be equal to or less than that which is calculated using the methodology established by the Maine Department of Environmental Protection and described in "Phosphorous Control in Lake Watersheds: A Technical Guide to Evaluating New Development (September, 1992)".

#### 2.4.19 Hydrogeologic Assessment

##### 2.4.19.1 When a hydrogeologic assessment is submitted, the assessment shall contain at least the following information:

2.4.19.1.1 A map showing the basic soils types.

2.4.19.1.2 The depth to the water table at representative points throughout the subdivision.

2.4.19.1.3 Drainage conditions throughout the subdivision.

2.4.19.1.4 Data on the existing ground water quality, either from test wells in the subdivision or from existing wells on neighboring properties.

2.4.19.1.5 An analysis and evaluation of the effect of the subdivision on ground water resources. In the case of residential developments, the evaluation shall, at a minimum, include a projection of post development nitrate-nitrogen concentrations at any wells within the subdivision and at the subdivision boundaries. For subdivisions within the watershed of a lake, projections of the subdivision's impact on ground water phosphate concentrations shall also be provided.

2.4.19.1.6 A map showing the location of any subsurface wastewater disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.

##### 2.4.19.2 Projections of ground water quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).

2.4.19.3 No subdivision shall increase any contaminant concentration in the ground water, at any on-site well or at the subdivision boundary to more than the Primary Drinking Water Standards. No subdivision shall increase any contaminant concentration in the ground water at any on-site well or at the subdivision boundary to more than the Secondary Drinking Water Standards.

2.4.19.4 If ground water contains contaminants in excess of the primary standards, and the subdivision is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated.

2.4.19.5 If ground water contains contaminants in excess of the secondary standards, the subdivision shall not cause the concentration of the parameters in question to exceed 150% of the ambient concentration.

2.4.19.6 Subsurface waste water disposal systems and drinking water wells shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a note on the Final Plan, and as restrictions in the deeds to the affected lots.

## 2.5 Waiver and Modification of These Regulations

2.5.1 Where the Planning Board finds that extraordinary and unnecessary hardships may result from the strict compliance with these regulations, or where there are special circumstances of a particular plan, it may waive any of these regulations provided that such waiver will not have the effect of nullifying the purpose of these regulations, the Comprehensive Plan, the Shoreland Zoning Ordinance, or any other ordinance.

2.5.2 In granting any waiver, the Planning Board shall require such conditions as will, in its judgment, secure substantially the objectives of the requirements so waived.

## 2.6 Appeals See Article VI *[amended May 17, 2008]*

## 2.7 State Subdivision Law Review Criteria (M.R.S.A. Section 4404, as amended)

The Planning Board shall find that the Resource-based Subdivision Development:

2.7.1 Will not result in undue water or air pollution. In making this determination, the Board shall at least consider:

2.7.1.1 The elevation of the land and its relation to flood plains;

2.7.1.2 The nature of the soils and subsoils and their ability to adequately support waste disposal;

2.7.1.3 The slope of the land and its effects on effluents;

2.7.1.4 The availability of streams for the disposal of effluents; and

- 2.7.1.5 The applicable State and local health and water resources regulations.
- 2.7.2 Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- 2.7.3 Will not cause an unreasonable burden on an existing water supply, if one is to be utilized;
- 2.7.4 Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that a dangerous or unhealthy condition may result;
- 2.7.5 Will not cause unreasonable highway or public road congestion or unsafe conditions with respect to use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
- 2.7.6 Will provide for adequate sewage disposal and will not cause an unreasonable burden on municipal services if they are utilized;
- 2.7.7 Will not cause unreasonable burden on the ability of the Town of Edgecomb to dispose of solid waste if municipal services are to be utilized;
- 2.7.8 Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
- 2.7.9 Is in conformance with the subdivision ordinance, comprehensive plan, zoning ordinance, floodplain management ordinance or other duly adopted town ordinance or regulation. In making this determination, the municipality may interpret these ordinances and plans;
- 2.7.10 Subdivider has adequate financial and technical capacity to meet the required standards;
- 2.7.11 Will not adversely affect the quality of water or unreasonably affect the shoreline of that body of water whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B,
- 2.7.12 When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.
- 2.7.12.1 To avoid circumventing the intent of this provision, if a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extend to the shore.

- 2.7.12.2 The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, Chapter 3, Subchapter I, Article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of Section 4401, Subsection 1, on September 23, 1983;
- 2.7.13 Will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater and aquifers;
- 2.7.14 If in or any part of it is in a flood-prone area, based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
- 2.7.15 Has any freshwater wetlands within the its proposed boundaries which have been identified on any maps submitted as part of the application, regardless of the size of these wetlands;
- 2.7.16 Has any river, stream or brook within its boundaries or abutting the subdivision, as defined in Title 38, Section 480-B, Subsection 9, which has been identified on any maps submitted as part of the application;
- 2.7.17 Will provide for adequate storm water management;
- 2.7.18 Will have no lots with shore frontage on a river, stream, brook or great pond as defined in Title 38, section 480-B, with a lot depth to shore frontage ratio greater than 5 to 1.
- 2.7.19 The long-term cumulative effects of which will not unreasonably increase a great pond's phosphorous concentration during the construction phase and life of the proposed subdivision; and
- 2.7.20 Which crosses municipal boundaries, will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.