

CHAPTER 16 SITE PLAN AND SUBDIVISION REVIEW

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CHAPTER 16
SITE PLAN AND SUBDIVISION REVIEW

ARTICLE I Land Subdivision

Sec. 16-101 Purpose

The purpose of this Article is to encourage the most appropriate use of land, provide for the orderly development of the City of Rockland and to protect and preserve the health, safety and general welfare of the citizens of Rockland including the future occupants of such subdivisions.

Sec. 16-102 Authority and Administration

1. Authority.

A. State Law. These provisions are adopted pursuant to and consistent with the Maine Revised Statutes, Title 30-A, §§ 4401 et seq.

B. Title. These subdivision regulations shall be known as cited as "Subdivision Ordinance of the City of Rockland".

2. Administration.

A. Planning Board Administers. The Planning Board for the City of Rockland hereinafter called the "Commission" shall administer these regulations.

B. Applicability. The provisions of these regulations shall pertain to all the land proposed for a subdivision, as defined, within the boundaries of the City of Rockland.

Sec. 16-103 Definitions

For the purpose of this Article, the word "subdivision" means the division of a lot, tract or parcel of land, as defined in the Maine Revised Statutes, Title 30-A, § 4401.

Sec. 16-104 Procedures for Subdivision Review

1. Pre-Application Meeting.

A. Informal Meeting. Prior to the formal submission of a subdivision application and the preliminary plan, the subdivider or his authorized agent may appear informally to discuss the proposed subdivision at a meeting of the Board.

B. Sketch Plan. The applicant is urged to present to the Board, for an informal review and comment, a sketch plan of the proposed subdivision. Such a sketch plan would show, in general terms, the layout of lots and any streets or similar terms.

C. No Binding Commitments. No binding commitments shall be made between the subdivider and the Board at this stage. A clear understanding of what is proposed, what is possible and what is acceptable is the aim of the "Pre-Application Meeting".

2. Subdivision Application. A subdivider shall submit a subdivision application to the Board upon such form(s) to be provided by the Board, paying to the City a fee as prescribed in Chapter 11, to cover the various costs to the City in reviewing the subdivision plan application. Upon receiving an application, the Board shall issue to the applicant a dated receipt and shall notify by mail all abutting property owners of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. Within thirty (30) days from receipt of the subdivision application, the Board shall notify the applicant in writing either that the application is complete and if not, which specific information is necessary to make a complete application. After the Board has determined that a complete application has been filed, it shall notify the applicant that he may proceed to submit the preliminary plan of the subdivision for evaluation and review by the Board. Eff: 12/13/00

3. Preliminary Plan.

A. Basic Information. The Preliminary Plan map shall not be less than sixteen inches by twenty four inches (16"x 24") (at least eight (8) copies shall be provided: one (1) for the subdivider or his agent; five (5) for the Board; one (1) for the City Council; and one for Code Officer) and drawn to scale of not less than one inch (1") equals forty feet (40') nor greater than one inch (1") equals four hundred feet (400') with contour lines of five foot (5') intervals unless otherwise specified by the Board. Each shall include: Eff: 6/7/89

(1) Name of Subdivision. Proposed name or identifying title of the subdivision along with the date of submittal.

(2) Name of Subdivider. Name and address of subdivider and his authorized agent, owner(s), engineer(s) and surveyor(s).

(3) Description of Land. Deed, book and page number of original tract or parcel of land; acreage of the tract or parcel, City tax map and lot number and names of abutting landowners. (Information may be obtained either from the County Registry of Deeds and/or municipal tax maps or assessment cards).

(4) Survey. Perimeter survey of tract made and certified by a registered land surveyor relating to reference points, showing true north point, graphic scale, corners of tract, and date of survey and total acreage.

(5) Man-Made and Natural Features. Existing buildings, lot lines, roads, streets, highways, utility lines, sewer lines, pumping stations, water lines, easements, natural features such as lakes, streams, rivers, wetlands, natural drainage ways, wooded and open roads, etc.

(6) Proposed Construction. Proposed buildings, lot lines and approximate dimensions (acreage) of each lot, roads, streets, highways, utility lines, water lines, sewer lines, pumping stations, easements and disturbances of natural features.

(7) Drainage. Indication of proposed surface water drainage (by arrows) and diversion plan.

(8) Soils Investigation. If the subdivision is not to be served by a public sewer line, then an on-site soils investigation report by a soil scientist, certified by the State of Maine Department of Human Services, must be made. This report shall contain the most appropriate and suitable subsurface sewage disposal systems of each lot in the subdivision and be signed by the soil scientist.

(9) Water Supply. Proposed water supply system(s).

B. Additional Information. The Preliminary Plan map shall be accompanied by the following data:

(1) Different Owner. If the owner of the land is different than the name of the subdivider, state whether the subdivider has an option to buy or a purchase and sales agreement.

(2) Water Table. Statement indicating the water table level of the area from approved evidence.

(3) Solid Waste Disposal. Statement of method of solid waste disposal.

(4) Notice to Abutters. Copies of letters to abutting landowners notifying them of the proposed subdivision.

(5) Financial Capability. Statement of financial capability to complete subdivision project.

(6) Compliance with Other Laws. Statement of intention to comply with applicable local, state and federal ordinances, statutes, laws, codes and regulations such as, but not limited to, zoning ordinances, Great Ponds Act, Coastal Wetlands Act and the flood prone areas subject to the National Flood Insurance Program.

(7) Fire Protection. Statement from the Fire Chief concerning availability of fire hydrants and/or fire ponds.

(8) Covenants. Deed restrictions and covenants running with the land.

(9) Other Studies. The Board may require that the subdivider make other studies and provide other data that it deems necessary or desirable.

4. Approval of Preliminary Plan.

A. Decision; Options. The Board shall approve, approve with modification, or disapprove the Preliminary Plan. The reason for any modification or the causes for disapproval shall be stated in a letter to the subdivider or his authorized agent and recorded in the records of the Board.

B. Deadline for Final Plan. Approval of a Preliminary Plan shall not constitute approval of the Final Plan, but rather serve as approval of the general design submitted in the Preliminary Plan as a guide to the preparation of the Final Plan. Within six (6) months after the approval of the Preliminary Plan, the subdivider or his authorized agent shall submit the Final Plan to the Board with a check of ten dollars (\$10) per residential lot. In the case of a cluster development, ten dollars (\$10) per dwelling unit shall be submitted. This check shall be made payable to the City of Rockland.

C. Failure to Submit Final Plan. Failure to submit the Final Plan within the designated time period shall require the submission of a new subdivision application.

5. The Final Plan.

A. Basic Information. The map of the Final Plan shall be submitted with two (2) original transparencies and four (4) copies. It shall include the following:

(1) Preliminary Plan. All the information shown on the Preliminary Plan map and any additions or modifications made by the Board.

(2) Permanent Markers. Location of permanent markers at all lot corners. The term "permanent markers" shall include, but is not limited to the following: a granite monument, a concrete monument, an iron pin or a drilled hole in a ledge.

(3) Who Prepared Plan. The name, registration number and seal of the land surveyor, architect, engineer or planning consultant who prepared the plan.

(4) Space for Approval. Suitable space to record on the Final Plan approval by the Planning Board, certification by the City Clerk and the date of such approval as follows:

Approved: Rockland Planning Board

Signed _____, Chairman

_____, City Clerk
Date: _____
Conditions: _____

B. Additional Information. The map of the Final Plan shall be accompanied by the following data:

(1) Street Construction. Statement from the City Engineer and/or Director of Public Works that any proposed road or street construction, grading and ditching have been reviewed and approved.

(2) Covenants. Any additional covenants or deed restrictions intended to cover all or part of the subdivision that the Board may require.

(3) Bond. Evidence from the City Clerk that the subdivider has filed a certified check or a performance bond to cover the full cost of any required public improvements with the City Manager.

(4) Other Data. Other data that may be requested by the Board to accompany the Final Plan. Eff: 12/13/00

(5) Technical Review Fee. The Planning Board, in the review of any application, may refer said application presented to it to such engineer, traffic professional, environmental expert, attorney or other professional that the Board shall deem reasonably necessary to enable it to review said application as required by law. Such review shall not be a substitution for any technical submissions as required by Ordinance or requested by the Board, but rather shall constitute a third party review of any of the applicant's submissions. The Board may waive such third party review if it is determined that the scale or nature of the project does not warrant it. Fees charged by such professionals shall be in accord with fees usually charged for such services in the region and pursuant to a contractual agreement between the City and such professional. All such charges shall be paid by the City through an escrow account established in accordance with Section (6) below. Eff: 07/11/07

(6) Escrow accounts. At the time of initial review of an application for completeness, if the Planning Board determines that outside technical review will be reasonably necessary, the Board shall require the establishment of an escrow account, from which withdrawals shall be made to reimburse the City for the cost of professional review services. The applicant shall then provide funds to the City for deposit into such account in an amount to be determined by the Planning Board with the advice of the various municipal officials concerned. The applicant shall be provided with copies of any City voucher for such services as they are submitted to the City. When the balance in such escrow account is reduced to 1/3 of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within 30 days after the applicant is notified, in writing, of the requirement for such additional deposit, the Planning Board may suspend its review of the application. A building permit or certificate of occupancy or use shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the City. After all pertinent charges have been paid; the City shall refund to the applicant any funds remaining on deposit. Eff: 07/11/07

6. Performance Bond.

A. Amount. The Planning Board shall require that the subdivider file with the City Manager at the time of submission of the Final Plan a performance guarantee in an amount sufficient to defray all expenses of any proposed public improvements. This may be rendered in the form of a certified check payable to the City of Rockland or a faithful performance bond running to 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 with the advice of the various municipal officials concerned. The amount shall be at least one and a half (1½) times the estimated cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage, and utilities or other improvements specified on the Final Plan within two (2) years of the date of the certified check or performance bond.

B. Extension. The Planning Board may recommend a maximum extension of twelve (12) months to the guaranteed performance period when the subdivider can demonstrate, to the satisfaction of the Planning Board and other interested officials or agencies, good cause for such extension.

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

7. Final Plan Approval.

A. Deadline. Within sixty (60) days after the submission of the Final Plan, the Planning Board by a majority vote shall

approve, approve with conditions or disapprove the Final Plan.

B. Reasons. The reason for any conditions or the cause for disapproval shall be stated in a letter to the subdivider or his authorized agent and recorded in the records of the Planning Board.

C. Procedures After Approval. Upon approval of the Final Plan, a majority of the Planning Board shall sign all copies. One (1) of the transparencies shall be filed with the Registry of Deeds and one (1) with the City of Rockland. One (1) of the copies is to be retained by the subdivider or his authorized agent, one (1) copy will be retained by the Planning Board as part of their permanent records, and one (1) copy to the Code Enforcement Officer.

8. Public Hearing.

A public hearing shall be held on the Preliminary Plan (and may also be held on the Final Plan) within thirty (30) days of submission. Notice of the date, time and place shall be published in a newspaper of general circulation in the area at least seven (7) days prior to the hearing date.

Sec. 16-105 General Requirements

In reviewing subdivisions, the Board shall consider the following general requirements. In all instances, the burden of proof shall be upon the person proposing the subdivision:

1. Conformance with Other Laws. Any proposed subdivision shall be in conformity with the provisions of all pertinent local, State and Federal ordinances, statutes, laws and regulations.

2. DEP Approval. If the proposed subdivision meets the definition of "subdivision" under the State of Maine Site Location Law as defined in the Maine Revised Statutes, Title 38, § 482, approval from the Department of Environmental Protection must be secured by the subdivider or his authorized agent.

3. On-Site Investigations. The Board may conduct on-site investigations of the proposed subdivision site at its discretion.

4. Lots and Density. Lot sizes shall be governed by the zone in which the subdivision is located. Lots shall be generally rectangular in shape with a ratio of no greater than one (1) to three (3), width to depth, unless specifically approved by the Board. On a cul-de-sac, the minimum frontage measured along the chord of a circle shall be the square root of one-third the required minimum lot area for the zone or shall be the normal minimum frontage required in the zone, whichever is less. For cluster developments see Section 19-306 Clustering. Eff: 04/11/07

5. Minimum Standards for Street Design and Construction. The design of streets shall provide for proper continuation of streets from adjacent subdivisions and built-up areas; and proper projection of streets into adjacent undeveloped and open land. The design of all streets and utilities within the right-of-way shall be prepared by a Maine Registered Professional Engineer.

A. Minor Streets. Minor streets shall be designed to discourage through traffic.

B. Right-of-Way; Width. Width of right-of-ways shall be a minimum of fifty feet (50') with sixty-six feet (66') desirable and the Commission may require additional width where the street may reasonably expect heavy usage.

C. Traveled Way; Width. The width of traveled ways shall be a minimum of two (2) eleven foot (11') traffic lanes. In addition the Planning Board may require two (2) eight-foot (8') parking. The Commission may also require that additional widths be added for streets which will receive heavy usage.

D. Horizontal Curves. The minimum centerline radius shall be established by the formula;

$$R = \frac{V^2}{15 \left(e + 0.14 + \frac{50 - V}{n} \right)}$$

R = minimum horizontal curve radius

V = design speed (miles per hour)

e = superelevation (ft/ft)

n = 1000 for design speeds of 50 or less and 500 for design speeds greater than 50

E. Vertical Curves. Changes in slope shall be accomplished with parabolic vertical curves designed in accordance with sound engineering practice.

F. Intersection Angle. The angle of street intersections shall be as close to ninety (90) degrees as possible; but in no case less than sixty (60) degrees (unless a traffic signal is used).

G. Street Grade. Street grades shall be a minimum of one-half percent (0.5%) and a maximum of seven percent (7%) which

may be varied by the Commission in certain cases. Grade at intersections shall be a maximum of three percent (3%) within fifty (50) feet of the intersection.

- H. **Dead-End Streets.** Dead end streets shall have a maximum length of one thousand (1000) feet from the centerline of the intersecting street and shall terminate in a cul-de-sac with a minimum radius of fifty feet (50'). The use of a T-shape turn around may be permitted as an alternative, if approved by the City Engineer and/or the Director of Public Works.
- I. **Minimum Construction Requirements.** Construction of streets shall conform to the requirements of the City Engineer with the following minimum requirements:
- (1) **Road Base.** Eighteen inches (18") of road base shall be required as follows:
 - (a) At least twelve inches (12") of sub-base gravel (MDOT Type D).
 - (b) At least six inches (6") of base crushed gravel (MDOT Type A).
 - (2) **Road Crown.** Road crown shall be at least two percent (2%) excepting transition to horizontal curves.
 - (3) **Paving.** Bituminous paving three and one-half inches (3-1/2") thick (two inch (2") binder with one and one half inch (1-1/2") surface coat) shall be required for the full width of the traveled way.
 - (4) **Engineering Standards.** All street construction shall conform to good engineering practices and be suitable for the intended usage of the street.
 - (5) **Shoulder.** Paving (two inches (2") hot bituminous) of the eight (8') foot shoulder (parking lane) may be required by the Commission.
- J. **Private Roads:** As an alternative to street design standards contained in Section 16-105.5.A through I, if approved by the Planning Board, a private road is permissible for residential subdivisions or development serving more than one single family dwelling in accordance with the following:
- (1) No more than six (6) new lots shall be created on any new or existing private road. Each lot shall have the minimum frontage required in the district regulations unless otherwise approved under Section 19-306 Clustering. The Planning Board may permit a private road to serve more than six (6) dwellings on commonly owned land when homes are clustered.
 - (2) All private roads shall connect to a street accepted by the City of Rockland, or a road built to the standards of Section 16-105.5. Multiple private roads may be established within a subdivision.
 - (3) When a private road is created or extended or a new lot is created on a private road and if the private road is to provide access to two or more lots or dwellings, a maintenance agreement specifying each lot owner's rights and responsibilities with respect to ownership, maintenance, repair, and plowing shall be established. Such agreement must be approved by the Planning Board and, before a building permit is issued, shall be recorded in the Knox County Registry of Deeds. Such recording shall bear the note: "The City of Rockland will not be responsible for the maintenance, repair, plowing or similar services for the private road. Future lot divisions may be prohibited."
 - (4) A plan and construction details for the private road must be submitted and shall include grades, the road profile, a typical section, a grading plan, a drainage plan, a plan for erosion and sedimentation control, and a utilities plan for each private road serving two or more lots. Construction details must bear the stamp and signature of a Professional Engineer registered in the State of Maine. The City of Rockland Fire Chief or his designee shall review all plans for private roads and make recommendations regarding safe passage with emergency equipment. The plan and construction details of the new, extended, or improved private road as approved by the Planning Board shall be recorded in the Knox County Registry of Deeds as part of the subdivision plan.
 - (5) The person proposing the private road shall submit a name of the road for City review. The name of the street shall not be so similar to the name of other streets or locations in the City as to cause confusion. The City reserves the right to designate any name for the road and name and number it in accordance with E-911 standards.
 - (6) The land within the right-of-way of a private road shall not be used to meet the frontage or lot area requirements of any lot obtaining its frontage from the private road. The creation of a private road shall not reduce the frontage, lot area, or other dimensional requirements of an existing conforming lot below that required by the zone in which it is located nor reduce the frontage, lot area, or other dimensional requirements of an existing nonconforming lot.
 - (7) **Construction Standards:** The design standards for new private roads and improvements to existing private roads are as follows:
 - (a) Right-of-way width shall be fifty feet (50'). A right-of-way may not be required in development on commonly owned land.
 - (b) Minimum travel width shall be eighteen feet (18').
 - (c) Minimum shoulder shall be 3 feet (3').
 - (d) Minimum aggregate sub-base (MDOT Type D) twelve inches (12").

- (e) Crushed gravel (MDOT Type A) or reclaim surface course six inch (6”).
 - (f) Minimum centerline grade: one percent (1%) or one-half of one percent (.5%) if paved.
 - (g) Maximum centerline grade: ten percent (10%)
 - (h) Minimum centerline radius: one hundred feet (100’).
 - (i) Roadway crown: three percent (3%) (two percent (2%) if paved).
 - (j) Maximum grade at intersection: three percent (3%).
 - (k) Maximum length dead end: fifteen hundred feet (1500’) (including a dead end public road, an existing private road or private road network).
 - (l) A turnaround suitable for public safety vehicles is required and can be designed as a “T” or cul-de-sac.
 - (m) Swales and culverts are generally acceptable. However, at the intersection with a City street, the drainage practice used on the intersecting street may be required for the portion within the City right-of-way.
 - (n) The applicant will provide and install a stop sign and street name sign meeting City specifications at the intersection with the public street or at the intersection with a road meeting the standards of a City street, designed to serve such private road.
 - (o) Trees and brush shall be cleared from within three feet (3’) of the traveled way and this clear zone shall be maintained permanently. The Rockland Fire Department may inspect the road periodically. If the road is not in good repair in the judgment of the fire department, the parties to the maintenance agreement may be notified that the road needs repair.
 - (p) The Planning Board may require sidewalks on private roads.
- (8) Before an occupancy permit is issued, the road (or portion thereof) will be inspected by the City and the applicant’s engineer shall certify that it has been constructed as designed.
- (9) Existing private roads: Any private road existing on January 11, 2006, which provides frontage for one or more lots shall be allowed to provide frontage to a maximum of six lots with Planning Board approval if it meets the standards or is improved to the standards of this section. The design standards for existing private roads are included in Paragraph § 7 above.
- (10) Subdivisions on existing City Streets: Where existing conditions or the number of new lots being created make compliance with Section 16-105.5 impractical, the Planning Board may permit necessary improvements to substandard existing City streets to meet the standards of a private road when approving subdivisions on such City streets. All accepted City streets must have bituminous paving in accordance with Section 16-105.5.H.(3.).
- (11) No private road shall be accepted as a City street by the City of Rockland unless its design and construction meet the standards set forth in 16-105.5.A-I. inclusive. Such construction and design shall be certified by a Professional Engineer registered in the State of Maine
- K. Sidewalks. There shall be a presumption that sidewalks are required to be installed in all Residential and Commercial subdivisions. Where the Planning Board finds that, due to special circumstances of a particular plan, sidewalks are not required in the interest of public health, safety and general welfare or are inappropriate because of the inadequacy or lack of connecting facilities adjacent to or in the proximity of the proposed subdivision, it may waive such requirements, subject to appropriate conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.
- L. Storm Sewer. A storm sewer may be required by either the City Engineer or the Planning Board. If a storm sewer is required, the road shall be curbed on one or both sides of the street as appropriate and paving shall be as specified in I (3) above for the curbed shoulder(s). A separate stub shall be provided for each parcel to convey storm and groundwater from perimeter drains and the like. Each stub shall be clearly located and identified on the record drawing and in the field. Design and specification of the sewer shall be approved by the City Engineer before construction begins and record drawings shall be submitted to the City Engineer within three (3) months of substantial completion. No street may be accepted by the City unless such record drawings are received.
- M. Sanitary Sewer. Unless each lot is to be served by a private septic system, the Planning Board shall require the construction of a separate sanitary sewer. A separate stub shall be provided for each parcel to convey sanitary wastewater. Each stub shall be clearly located and identified on the record drawing and in the field. Design and specification of the sewer shall be approved by the City Engineer before construction begins and record drawings shall be submitted to the City Engineer within three (3) months of substantial completion. No street may be accepted by the City unless such record drawings are received.
- (1) Street Lighting and Underground Utilities. The design, type and location of street and proposed on-site lighting are subject to review. The lighting materials must blend with the overall project scheme enhancing building design and landscaping. Standards and fixtures must be compatible with surrounding development. Excessive brightness must

be avoided and lighting must be confined to the extent possible to the area of the project.

- (2) The Planning Board shall require the applicant to install street lighting in the subdivision. Where utilities are installed underground, the applicant shall install street lights wired into the underground system. The requirement of street lighting may be waived if no new streets are being constructed as part of the subdivision, and street lighting in the existing street is adequate to illuminate the proposed development.
- (3) Utilities shall be installed underground, unless in the sole discretion of the Planning Board such an installation would cause unnecessary hardship or, because of the prevalence of overhead wires in the immediate vicinity, extension of the existing overhead wire network would be more practical. Utilities shall be installed in a timely manner during street construction to prevent re-excavation of the finished street. Eff: 01/11/06

6. Utility Easements. The Board shall require easements for sewer lines, drainage or other utilities if they are not in the street rights-of-way.

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

8. Surface Water. The Board may require the installation of ditches, catch basins, piping systems and other appurtenances for the conveyance, control or disposal of surface waters. Adequate drainage shall be provided so as to reduce exposure to flood hazards.

9. Traffic Study. The Board shall require the subdivider to submit a traffic study on the impact of the proposed subdivision if the proposed subdivision adjoins that section of U.S. Route One which is between Maverick Street and the Rockport Town Line, or is to be located on a right of way leading into the above section of U.S. Route One.

The traffic study required under this section shall examine the impact of projected traffic changes that may be caused by the subdivision and recommend improvements and/or changes to the proposed subdivision, including downsizing of the project, if such improvements or changes will ameliorate traffic problems and will not reduce the current Level of Service (L.O.S.) of the roadway system involved. The required traffic study shall be undertaken by a licensed traffic engineer at the expense of the subdivider. The Planning Board may require the developer of the subdivision to follow recommendations contained in the traffic study.

10. Groundwater Study. If the proposed subdivision lies within the drainage area of Rockland Harbor north of Maverick Street as shown on a map from a 1978 Time and Tide study entitled "Rockland Shore Erosion - Critical Area Measure - Final Report", a copy of which map is incorporated in this section by reference, the Board shall require that the subdivider undertake or participate at the subdivider's own expense in a Site Specific Hydrogeological Study performed by a licensed geologist certified by the State of Maine who is knowledgeable in the areas of hydrology and hydrogeology unless the Board makes a positive finding that the proposed project shall have such minimal impact upon groundwater or drainage that such requirement is unduly burdensome.

Each such study shall be tailored to the site and surrounding land uses, and shall be guided by the best professional judgement of the licensed professional conducting the study. The study shall evaluate

- (a) The character and depth of surficial materials,
- (b) The bedrock topography,
- (c) The horizontal and vertical ground water gradients,
- (d) Current ground water recharge and/or discharge areas and rates,
- (e) Changes in ground water recharge, flux, gradients, and discharge under proposed development conditions,
- (f) The impact of these changes on the stability of slopes down gradient from the site, from changes in site loading, ground water flux, and surface water discharge.

The study shall be closely coordinated with the on-site geotechnical evaluation of the management of stormwater from the property. The Board may require the subdivider to follow recommendations contained in the study, including downsizing of the project if so indicated in the study. The Board may also, at its sole discretion, require that the subdivider pay for an independent evaluation of the subdivider's hydrogeological study. Eff: 4/9/97

Sec. 16-106 Enforcement

No person, firm, corporation or other legal entity shall sell, lease, develop, build upon, or convey for consideration any land in a subdivision which has not been finally approved and signed by the Planning Board, certified by the City Clerk and recorded in the Knox County Registry of Deeds. Nor shall such person, firm, corporation or other legal entity sell or convey any land in an approved subdivision unless at least one "permanent marker" as defined in 30 MRSA, Section 4956(4) is set at one lot corner of the lot sold or conveyed. Nor shall there be any sewer, water, or other public utility services installed, streets constructed, lots graded, buildings erected or other improvements made to any lot in a subdivision for which a Final Plan has not been approved. Violation of this provision shall be punishable by a fine of not more than one thousand dollars (\$1000) for each offense. The City

Council may institute legal proceedings seeking other appropriate relief in addition to a fine, including but not limited to injunctive relief and specifically the restoration of the land to its previous condition.

Sec. 16-107 Resubdivision

After approval of a plat by the Board, any additional division of land within or contiguous to the plat or any changes to privately owned rights-of-way created by the subdivision, shall be subject to the full requirements of these regulations for review and approval. This requirement shall not apply to divisions of land in an approved subdivision which are conveyances between abutters, and which result in an increase in lot size to the lots involved. Eff: 5/14/97

Sec. 16-108 Waivers

1. Hardship. Where the Zoning Board of Appeals finds that extraordinary and unnecessary hardship due to topographical considerations may result from strict compliance with the regulations or where there are special circumstances of a particular plan, it may vary such regulations provided that these variations will not have the effect of nullifying the intent and purpose of the official map, the comprehensive plan, the shoreland use ordinance or other land use ordinances where such exist.

2. Special Circumstances. Where the Zoning Board of Appeals finds that due to special circumstances of a particular plan, the provision of certain required improvements and regulations not requisite in the interest of public health, safety and general welfare or inappropriate because of inadequacy or lack of connecting facilities adjacent or in proximity to the proposed subdivision, it may waive such requirements, subject to appropriate conditions.

3. Conditions Imposed. In granting waivers and modifications, the Zoning Board of Appeals shall require such conditions as will, in its judgement, secure substantially the objectives of the requirements so varied or modified.

Sec. 16-109 Appeals

Pursuant to Maine Rule of Civil Procedure 80B, appeals from a final decision of the Planning Board to approve, approve with conditions, or deny a subdivision application may be filed with the Knox County Superior Court by any person aggrieved within thirty (30) days of the Board's decision. Eff: 01/09/08

Sec. 16-110 Validity and Severability, Effective Date and Filing

1. Severability. Should any section or provision of these regulations be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of these regulations.

2. Filing in Registry. A certified copy of the Subdivision Regulations and any amendments shall be endorsed by the City Clerk and shall be filed with the Knox County Registry of Deeds in the manner provided by law.

State Law Reference: 30-A M.R.S. § 4401; 33 M.R.S. §§ 1601-105, 1601-106; 38 M.R.S. §§ 481-490.

ARTICLE II Site Plan Review Ordinance

Sec. 16-201 Projects Reviewed; Effect on Action by Code Enforcement Officer and Board of Appeals

No person, corporation or other legal entity shall construct a new structure or structures or add on to an existing structure or structures, for a public, commercial or industrial use or for a multi-unit residential development which consists of five or more dwelling units and which does not constitute a subdivision without first obtaining approval from the Planning Board under this Section. No building permit for projects requiring review under this Section shall be issued by the Code Enforcement Officer without evidence that the project has received final Planning Board approval. If an interpretation or variance appeal is filed with the Zoning Board of Appeals prior to the granting of final approval of the application by the Planning Board, the Planning Board shall table final action on the application pending the Zoning Board of Appeals' decision and shall notify the Zoning Board of Appeals of that action. Eff: 01/09/08

Any change of use of an existing structure or land to another permitted use not within the Downtown Parking District, the

Industrial Park, or the Plaza Commercial Zone, where the required number of parking spaces for the use is ten (10) or more in accordance with Section 19-307.7.J Table of Parking Requirements, shall be subject to Planning Board approval under this Article, whether or not a structure is involved. Additionally, any change of use outside of the Downtown Parking District or Plaza Commercial to Eating and Drinking Places, Convenience Stores, and use with a drive-up window or drive-thru, or Sole Source Pharmacy, shall also be subject to Planning Board approval regardless of how many parking spaces are required. In granting, denying and/or imposing conditions, the Planning Board shall review a scaled drawing of sufficient detail for consideration of the following: location, character and nature features of the site and adjoining property; fencing and screening; landscaping, topography and natural drainage; traffic hazards, vehicular access, circulation and parking; frequency and number of vehicles accessing the site; pedestrian circulation; lighting; noise; hours of operation; availability of necessary public services; compliance with applicable requirements of all City Ordinances and standards to the greatest practical extent. The Planning Board may impose any reasonable conditions in the interest of public safety and to minimize impact on adjacent properties and neighborhoods. The Planning Board may request additional information as deemed necessary. Eff: 03/16/05

A new structure permitted for residential use, which undergoes a change of use to a non-residential or mixed use within five (5) years from the date of the original building permit, shall be subject to full Site Plan Review by the Planning Board under this section. This provision shall not apply to legally established Home Occupations. Eff: 05/10/06

Notice Required. All property owners within three hundred (300) feet of the lot lines of any proposed change of use under this section shall be notified in writing at least ten (10) days prior to consideration of the change of use by the Planning Board.

When the use of the lot that is the subject of a site plan application is a grid-scale power generation facility, notice of the application shall be provided to the Knox County Emergency Management Agency for distribution to municipalities and, when the lot abuts a town line, to the Selectmen and/or Manager of such adjacent town, whether or not such use constitutes a change of use. Submission deadlines shall be the same as for any Site Plan Review. Eff: 08/10/16

Sec. 16-201.1 Exceptions to Review Requirements

1. New Structures or additions or changes in use will not be reviewed under the Site Plan Review Ordinance if in any five year period the new structure or new addition or the structure within which a change of use is to be located is:

- a. Under 600 square feet in gross floor area and does not exceed 20 feet in height, or
- b. Located in the City of Rockland Industrial Park, except grid-scale and distributed power generation facilities.

Eff: 08/10/16

2. Structures or additions will not be reviewed under the Site Plan Review Ordinance if the structure replaces another structure partially or totally destroyed by fire, explosion, or other mishap, and is to be rebuilt the same size (building footprint and height) at the same location and elevation, and no other changes are required to the site. In the case of such replacement structure, the proper permits from the Code Office are required even though Site Plan Review may no be mandatory, and the permits must be applied for within six months after the partial or total destruction of the original structure or addition. If ordinance or Code provisions require, (or the applicant chooses to make) changes to the size, height or elevation of the building or changes to the site, or to its use, the project shall be reviewed as a new structure under the Site Plan Review Ordinance. Eff: 10/9/91

Sec. 16-202 Procedure

The following procedure shall govern the submission and review of all mandatory site plans:

1. Statement by Applicant. The applicant shall submit to the Planning Board a statement indicating the name and address of the owner of the parcel proposed for development, and the estimated cost of the development. The statement shall also include an estimate of the time required to complete the proposed development. The statement shall be accompanied by the payment of a fee as prescribed in Chapter 11, Section 11-403, Fee Schedule, to cover the various costs to the City in reviewing the site plan applications may include a public hearing. Eff: 8/12/87

2. Site Plan. Every applicant applying for approval under this Article shall submit to the City Planner eight (8) copies of the site plan of the proposed development which shall be prepared in accordance with Sec. 16-203 herein. The City Planner shall retain one (1) copy, forward five (5) copies to the Board, and one (1) to the City Manager. Eff: 6/7/89

3. City Manager's Comments. Within ten (10) days after receipts of the site plan, the City Manager or his designee shall submit written comment to the Planning Board.

4. Deadline for Commission Action. Within thirty (30) days after receipt of a complete site plan and required statement (or such further time as may be agreed upon by the parties), the Planning Board shall in writing approve, approve upon conditions certain, or disapprove the site plan and shall forward copies of its decision to the applicant, the Building Inspector, City Manager, and the City Council.

5. Public Hearing. The Planning Board may at its sole discretion convene a public hearing to consider the matter.

6. Form of Decision. All decisions of the Planning Board under this Article shall contain a statement setting forth its findings of fact, its conclusions and the reasons therefore upon all the material issues of fact, law or discretion presented and the appropriate order, relief or denial thereof. Notice of any decision shall be mailed by certified letter with return receipt requested or hand delivered to the applicant within seven (7) days of the decision.

7. Performance Guarantee. The Planning Board may at its sole discretion require a performance guarantee from the developer in the form of a certified check payable to the City of Rockland or a performance bond running to the City of Rockland and issued by a corporate surety acceptable to the Planning Board or an escrow agreement with the City, managed by a financial institution acceptable to the Planning Board. The conditions and amount of such performance guarantee shall be determined by the Planning Board with the advice of the various City departments or agencies concerned. The amount shall be at least equal to the total estimated cost of furnishing, installing, connecting and completing all of the street grading, paving, storm drainage and utilities or any other improvements specified in the site plan. The performance guarantee shall not be released by the Planning Board until it has been established that the work required has been completed in accordance with the approved site plan.

8. Informed Growth Act Review.

A. Adoption. Pursuant to Title 30-A, Maine Revised Statutes, Section 4365-A, the City of Rockland hereby adopts by reference the Informed Growth Act, set forth in Title 30-A, Maine Revised Statutes, Ch. 187. SubCh. 3-A, as amended, and the procedures and criteria for the review of large-scale development contained therein.

B. Fee. The applicant for approval of a large-scale development shall pre-pay to the City the estimated cost of the comprehensive economic impact study conducted pursuant to the Informed Growth Act, together with and in addition to any other technical assistance and/or legal fees and costs authorized under this Article. The applicant shall pay the City any amount by which the actual cost of the comprehensive economic impact study exceeds the pre-paid estimated cost of the study; the City shall remit to the applicant any amount by which the actual cost of the study and any other technical assistance and/or legal fees or costs chargeable to the applicant under this Article is less than the pre-paid estimated cost.

C. Effective Date. The procedures adopted and fees imposed herein shall be effective as to applications for large-scale developments received on or after September 28, 2011. Eff: 01/11/12

Sec. 16-203 Elements of the Site Plan

The site plan shall be drawn to a scale of not less than one (1) inch equal fifty (50) feet and shall contain the following:

1. Title. Proposed name of identifying title of the development along with the date of submittal.
2. Scale. Scale and orientation.
3. Parcel Size. Dimensions (to the nearest foot) and acreage of the parcel to be built upon or converted.
4. Contours. Existing contours at elevation intervals of not more than two (2) feet. Proposed contours to be shown in contrasting demarcation at intervals of not more than two (2) feet.
5. Existing Man-made and Natural Features. The size, shape and location of existing and proposed buildings, structures and other significant physical features both within the development and outside the perimeter of the development in accordance with the following schedule: In addition, all projects located in whole or in part within the Chickawaukie Lake watershed must have that fact clearly indicated on the Site Plan. Eff: 8/12/87

Additions or separate buildings
having a ground floor area of:
Four hundred (400) square feet or less.
More than four hundred (400) square feet up
to ten thousand (10,000) square feet.
More than ten thousand (10,000) square feet
up to fifty thousand (50,000) square feet.
More than fifty thousand (50,000) square feet.

Distance beyond property line
of development:
To property line only.

One hundred (100) feet.

Two hundred (200) feet.
Three hundred (300) feet.

6. Vehicular Access and Traffic Impact. The location and dimensions of parking areas, loading and unloading facilities, handicapped assistance facilities, and points of ingress and egress of vehicles to and from the site to public and private streets and ways proposed and existing. In addition, if the proposed site adjoins that section of U.S. Route One between Maverick Street and the Rockport Town Line, or is to be located on a right of way leading to the above section of Route One, the Board shall require the developer to submit a traffic study on the proposed project.

The traffic study shall be undertaken by a certified traffic engineer at the expense of the applicant for site plan approval, shall examine the impact of projected traffic changes that may be caused by the project and shall recommend improvements and/or changes to the proposed project, including downsizing, if such improvements or changes will ameliorate traffic problems and will

not reduce the current Level of Service (L.O.S.) of the roadway system involved. The Planning Board may require the applicant to follow recommendations contained in the traffic study. Eff: 9/11/96

- 7. Easements. Location of all existing and proposed easements and right-of-way.
- 8. Pedestrian Access. Location of all pedestrian access ways and the dimensions thereof, existing and proposed.
- 9. Underground Utilities. Location and size of existing and proposed water and sewer mains, culverts, storm drains, fire hydrants, wells, septic systems, fire ponds and all underground utility conduits.
- 10. Lighting. Locations of outdoor lighting and the intensity of illumination thereof.
- 11. Surface Drainage and Groundwater Impact. Location of natural features such as water courses, marshes, rock outcroppings, stands of trees and indication of surface water drainage. In addition, if the proposed project lies within the drainage area of Rockland Harbor north of Maverick Street as shown on a map from a 1978 Time and Tide study entitled "Rockland Shore Erosion - Critical Area Measure - Final Report", a copy of which map is incorporated in this section by reference, the Board shall require that the applicant undertake or participate at the applicant's own expense in a Site Specific Hydrogeological Study performed by a licensed geologist certified by the State of Maine who is knowledgeable in the areas of hydrology and hydrogeology, unless the Board makes a positive finding that the proposed project shall have such minimal impact upon groundwater or drainage that such requirement is unduly burdensome.

Each such study shall be tailored to the site and surrounding land uses, and shall be guided by the best professional judgement of the licensed professional conducting the study. The study shall evaluate

- (a) The character and depth of surficial materials,
- (b) The bedrock topography,
- (c) The horizontal and vertical ground water gradients,
- (d) Current ground water recharge and/or discharge areas and rates,
- (e) Changes in ground water recharge, flux, gradients, and discharge under proposed development conditions,
- (f) The impact of these changes on the stability of slopes down gradient from the site, from changes in site loading, ground water flux, and surface water discharge.

The study shall be closely coordinated with the on-site geotechnical evaluation of foundation and slope conditions and with the engineering evaluation of the management of stormwater from the property. The Board may require the applicant for site plan approval to follow recommendations contained in the hydrogeological study, including downsizing of the project if so indicated in the study. The Board may also, at its sole discretion, require that the applicant for site plan approval pay for an independent evaluation of the applicant's hydrogeological study. Eff: 4/9/97

- 12. Landscaping. Landscape plan showing location and type of plantings and screening.
- 13. Signs. Location and size of signs and advertising features shall be governed by Chapter 19 of the Rockland Code, Section 19-315, Signs. Eff: 1/11/95
- 14. Above-ground Utilities. Location and size of above-ground utilities.
- 15. Abutters. Names of abutting landowners are required in all cases. In addition, show all landowners within the area required by Site Plan in accordance with the schedule in #5 above. Lastly, all construction occurring in whole or in part within the Chickawaukie Watershed must show the Camden-Rockland Water Company under this section. Eff: 8/12/87
- 16. Other Data. Such other information as the Planning Board may, from time to time, request.
- 17. Space for Approval. Suitable space to record, on the Site Plan, approval by the Planning Board, date and conditions of approval, Certification by the City Clerk and certification of substantial completion by the Code Enforcement Officer as follows:

Approved: Rockland Planning Board

_____, Chairman
 _____, Commission Members

Date & _____
 Conditions: _____

City Clerk: _____
 Code Enforcement Officer: _____

Eff: 8/12/87

18. Technical Review Fee. The Planning Board, in the review of any application, may refer said application presented to it

to such engineer, traffic professional, environmental expert, financial experts, facilities safety expert, attorney or other professional that the Board shall deem reasonably necessary to enable it to review said application as required by law. Such review shall not be a substitution for any technical submissions as required by Ordinance or requested by the Board, but rather shall constitute a third party review of any of the applicant's submissions. The Board may waive such third party review if it is determined that the scale or nature of the project does not warrant it. Fees charged by such professionals shall be in accord with fees usually charged for such services in the region and pursuant to a contractual agreement between the City and such professional. All such charges shall be paid by the City through an escrow account established in accordance with Section (19) below. Eff: 07/11/07; Amended 08/10/16

19. Escrow accounts. At the time of initial review of an application for completeness, if the Planning Board determines that outside technical review will be reasonably necessary, the Board shall require the establishment of an escrow account, from which withdrawals shall be made to reimburse the City for the cost of professional review services. The applicant shall then provide funds to the City for deposit into such account in an amount to be determined by the Planning Board with the advice of the various municipal officials concerned. The applicant shall be provided with copies of any City voucher for such services as they are submitted to the City. When the balance in such escrow account is reduced to 1/3 of its initial amount, the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within 30 days after the applicant is notified, in writing, of the requirement for such additional deposit, the Planning Board may suspend its review of the application. A building permit or certificate of occupancy or use shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the City. After all pertinent charges have been paid; the City shall refund to the applicant any funds remaining on deposit. Eff: 07/11/07

Sec. 16-204 Standards

A site plan shall be approved unless in the judgment of the Planning Board one or more of the following conditions are found to exist:

1. Traffic. The provisions for vehicular loading, unloading, and parking, and for vehicular and pedestrian circulation on the site and onto adjacent public and private streets and ways will create hazards to safety, or will impose a significant burden upon public facilities. There shall be a presumption that sidewalks are required. However, in those cases where the Planning Board makes a specific finding that, due to the inadequacy or lack of connecting sidewalks adjacent to the proposed project, together with circumstances within the proposed project which render the immediate construction of sidewalks inappropriate, the Planning Board may substitute one of the following conditions:

- i. It may require a reasonable payment from the applicant to be used to link the proposed project to the City's sidewalk system when the system reaches the proximity of the project.
- ii. It may waive the requirement either partially or entirely.
- iii. It may make reasonable provision for the construction by the developer of sidewalks serving the project, whether or not the sidewalks are actually within the project. Eff: 11/15/02

2. Compatibility with Other Uses; Burden on Public Facilities. The size and location of proposed building and structures and the proposed uses thereof will be detrimental or injurious to other private or public development in the neighborhood or will impose significant burdens upon public facilities.

3. Landscaping. The provisions of on-site landscaping and screening do not provide adequate protection to neighboring properties from detrimental features of the development. The Planning Board may modify or waive the landscaping, screening, and/or buffering requirements set forth in Ch. 19, Art. III, Sec. 19-316 – Performance Standards where the Board finds that part or all of the landscaping or buffering required thereunder either (A) is impracticable due to site constraints not caused by the proposed development other than its utilization of or compliance with setback requirements; (B) is unnecessary due to the compatibility of abutting existing or proposed uses; or (C) would impede or detract from the programmatic, aesthetic, or community benefit components of a proposed development. Financial burden or capacity shall not alone justify a waiver of a landscaping, screening, or buffering requirement. Eff: 08/10/16

4. Drainage. The site-plan fails to solve the soil and drainage problems that the development will create.

Projects within the Chickawaukie lake watershed, as defined in Section 19-304-13, shall be required to improve existing man-made drainageways flowing directly or indirectly to Chickawaukie Lake which will receive storm water from the proposed development, if such storm water is calculated to increase in volume above existing conditions. The volume of sediment or dissolved nutrients reaching Chickawaukie Lake shall not be increased. Eff: 11/13/87

5. Lighting. The provisions of exterior lighting create a hazard for vehicular or pedestrian traffic or safety or will unreasonably diminish the value or create a hardship to the reasonable enjoyment of adjacent property.

6. Fire Hazard. The proposed development will create fire hazard.

7. Sewer; Water; Solid Waste. The proposed development will impose an undue burden on on-site and off-site sewer and water or solid waste disposal.

8. Compatibility With Area. The proposed use and layout will be of such size or character that it will not be consistent with the appropriate and orderly development of the surrounding area.

9. Signs. If a sign is part of the application, the Planning Board does not have jurisdiction over review of this element. Standards and procedures relating to signs or other advertising devices are contained in Chapter 19 of the Rockland Code, Section 19-315, Signs. Eff: 1/11/95

10. Compliance With Other Ordinances. The proposed use, building, design or layout will not meet the provisions of the Zoning Ordinance or other regulations and ordinances of the City of Rockland or statutes of the State of Maine.

11. Financial Capacity. The applicant has not demonstrated that it has sufficient financial capacity to fund and complete (1) any improvements directly affecting any disturbed right-of-way or utilities or other infrastructure therein. Eff: 08/10/16

12. Decommissioning. The Board may require that an applicant proposing to erect a wind turbine or construct a Grid-Scale Power Generation Facility or Community-Based Renewable Energy Project submit a Decommissioning Plan for the Board's review and approval. For these purposes, "decommissioning" may include, at the Planning Board's discretion, the physical removal of all components of the project, including, as may be applicable, wind turbines, cabling, electrical equipment, structures and associated facilities, and all materials and chemicals. The Board may accept a decommissioning plan that provides for decommissioning no later than five years following the cessation of power generation on the site so long as the operator is, during such five year period, actively seeking to achieve a repurposing of the site and facilities to be decommissioned. The decommissioning plan must include a detailed estimate of the costs of decommissioning, and a financial plan acceptable to the Board for funding such decommissioning costs. To the extent any structures or components are proposed to be omitted from the decommissioning, the plan shall provide evidence of alternative, beneficial use of such structures and components following the cessation of power generation on the site. Eff: 08/10/16

Sec. 16-205 Approval

1. Assignment. A successor to an applicant who has received site plan approval by the Planning Board pursuant to this Article, or other assignee of such approval, shall be bound by and must comply with the application, site plan and related materials, and representations of such applicant, and with all conditions of approval and other requirements imposed by or on behalf of the Planning Board, to the fullest extent permitted by law. Notwithstanding the foregoing, a site plan approval for a Grid-Scale Power Generation Facility may not be assigned without Planning Board approval, and shall be void in the absence thereof. Eff: 08/10/16

2. Completion Deadline. If an applicant has not obtained a Certificate of Occupancy from the code enforcement officer within two (2) years from the date on which the Planning Board granted its approval under Sec. 16-202.4, then the applicant shall be subject to a penalty under Sec. 16-207. The Planning Board may permit an extension of up to one (1) additional year to obtain a Certificate of Occupancy for good cause shown. Eff: 11/10/89

3. Violation. Failure to comply with the order of the Planning Board shall constitute a violation of this Article and shall be subject to Section 16-207.

Sec. 16-206 Appeals

Pursuant to Maine Rule of Civil Procedure 80B, appeals authorized under Section 16-201 of this Article shall be filed with the Knox County Superior Court within thirty (30) days of the Board's final decision. An appeal of the Board's final decision may be filed by any person aggrieved by that decision. Eff: 01/09/09

Sec. 16-207 Penalty

Violation would mean a fine of no less than fifty (\$50) a day nor more than one hundred dollars (\$100) a day; each day is considered an additional violation.

State Law Reference: 30-A M.R.S. § 3001; 33 M.R.S. §§ 1601-105, 1601-106.