

**LYMAN**

**PLANNING BOARD**

**LAND DEVELOPMENT**  
**AND**

**SUBDIVISION**

**STANDARDS**

**Amended as of July 21, 2004**

**Amended December 7, 2005**

**Revised March 16, 2011**

**Posted on Line May 20, 2011**

**Revised July 12, 2018**

**Revised March 4, 2020**

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LAND DEVELOPMENT AND SUBDIVISION REGULATIONS  
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**Revised 03/04/20**

The Lyman Land Development and Subdivision Regulations were completely reviewed and revised in the 2010/2011 and approved by the Lyman Planning Board on March 16, 2011.

Major changes include:

- Article 3, Subdivision Approval Criteria - Added Sections 13 through 23 to conform with revised Maine Statutes
- Article 4, Definitions – Revised to include definitions from Cluster Development Section, as well as add several definitions
- Article 8, Requirements - Added requirement to require a Homeowners Association for all subdivisions to fund responsibility for all subdivision common facilities, including fire water storage tanks
- Changed parts of some articles to conform with the Lyman Zoning Ordinance, adopted in June 2010

There were many editorial and format changes made to enhance consistency and readability of the document.

# **LYMAN PLANNING BOARD LAND DEVELOPMENT AND SUBDIVISION STANDARDS**

## **ARTICLE 1 - PURPOSE**

- 1.1 The Planning Board of the Town of Lyman has the responsibility of planning for sound land use developments that will protect the public health and will enhance the environmental quality of our community and the land and water resources. At the same time, the Planning Board has the responsibility of planning for sound economic development in our town. The Planning Board also has the responsibility to plan so that individuals, landowners, prospective lot owners, taxpayers, and the town, are protected from ill-advised development that will add to the tax burden of the people of the town. The Planning Board strongly favors sound planned developments that show reasonable promise of providing benefits to the people of our town without unreasonable town expense.
- 1.2 The Planning Board has approved these Land Development and Subdivision Standards to provide reasonable regulations for subdivision development in the Town of Lyman in accordance with Maine State Planning and Land Use Laws.
- 1.3 Whenever a provision of these standards conflicts with or is inconsistent with another provision of these standards or any other ordinance, regulation or statute, the more restrictive provision shall control, unless otherwise indicated.

## **ARTICLE 2 – SUBDIVISION**

### **2.1 Subdivision Defined**

A subdivision is the division of a tract or parcel of land into three or more lots within any five-year period, that begins on or after September 23, 1971, whether accomplished by sale, lease, development, building or otherwise, except when the division is accomplished by inheritance, order of the court, or gift to a relative, unless the intent of such gift is to avoid the objectives of these standards.

The term subdivision also includes the division of a new structure or structures on a tract or parcel of land into three or more dwelling units within a five year period, the construction or placement of three or more dwelling units on a single tract or parcel of land, and the division of an existing structure or structures

previously used for commercial or industrial use into three or more dwelling units within a five year period.

The term subdivision shall include the division of land for residential and non-residential purposes, mobile-home parks, campgrounds and the re-subdivision of land.

## **2.2 Dividing Land Parcels**

In determining whether a tract or parcel of land is divided into three or more lots, the first dividing of the tract or parcel is considered to create the first two lots, and the next dividing of either of these first two lots, by whomever accomplished, is considered to create a third lot, unless:

1. Both dividings are accomplished by a subdivider/applicant who has retained one of the lots for the subdivider/applicant's own use as a single family residence that has been the subdivider/applicant's principal residence for a period of at least the five years immediately preceding the second division; or
2. The division of the tract or parcel is otherwise exempt under Title 30-A M.R.S.A. Sections 4401-4407.

The dividing of a tract or parcel of land and the lot or lots so made, which dividing or lots when made are not subject to these Subdivision Regulations, do not become subject to these Subdivision Regulations, by the subsequent dividing of that tract or parcel or any portion of that tract or parcel.

## **2.3 Additional Considerations and Exemptions**

The Planning Board shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent subdividing.

In determining whether a subdivision has occurred, land retained by the subdivider/applicant for his own use as a single family dwelling for a period of at least five years shall not be included in the computation of total lots created.

No sale or lease of any lot or parcel shall be considered as being part of a subdivision if such lot or parcel is 40 acres or more in size, except where such sale or lease is to avoid the objectives of these standards.

Proposed subdivisions approved by the Planning Board or Municipal Officers prior to September 23, 1971, in accordance with laws or regulations then in effect, and subdivisions in actual existence on September 23, 1970 that did not require approval under prior law shall be exempt from review. The division of a tract or parcel by sale, gift, lease, inheritance or order of the court into three or

more lots and upon which lots permanent dwelling structures legally existed prior to September 23, 1971, is not a subdivision.

Refer to Title 30-A M.R.S.A. Sections 4401-4407 for additional information.

### **ARTICLE 3 – SUBDIVISION APPROVAL CRITERIA**

**3.1** In approving subdivisions within the Town of Lyman, the Planning Board shall consider the following criteria from Title 30-A M.R.S.A. Section 4404, and before granting approval, shall determine that the proposed subdivision:

- 1. Pollution.** Will not result in undue water or air pollution. In making this determination, the Planning Board shall at least consider: The elevation of the land above sea level and its relation to the flood plains; the nature of soils and sub-soils and their ability to adequately support waste disposal; the slope of the land and its effect on effluents; and the applicable State and local health and water resources regulations;
- 2. Sufficient Water.** Has sufficient water available for the reasonably foreseeable needs of the subdivision;
- 3. Water Supply.** Will not cause an unreasonable burden on an existing water supply, if one is to be utilized; and will not unreasonably affect surrounding water supplies.
- 4. Erosion.** Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold water so that dangerous or unhealthy conditions may result;
- 5. Traffic.** Will not cause unreasonable congestion or unsafe conditions with respect to use of highways, public or private roads, existing or proposed;
- 6. Sewage Disposal.** Will provide for adequate solid and sewage waste disposal;
- 7. Municipal Solid Waste.** Will not cause an unreasonable burden on the ability of the municipality to dispose of solid waste;
- 8. Municipal or Governmental Service.** Will not place an unreasonable burden on the ability of the local governments to provide municipal or governmental services;

9. **Aesthetic, Cultural and Natural Values.** Will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas;
10. **Conformity with Local Ordinances and Plans.** Is in conformance with duly adopted subdivision standards or ordinance, comprehensive plan, development plan, or land use plan;
11. **Financial and Technical Capacity.** The subdivider/applicant has adequate financial and technical capacity to meet the requirements of these Subdivision Standards.
12. **Surface Waters.** Whenever situated, in whole or in part, within 250 feet of any pond, lake, river or tidal waters, will not adversely affect the quality of such body of water or unreasonably affect the shoreline of such body of water.
13. **Ground Water.** Will not, alone or in conjunction with existing activities, adversely affect quality or quantity of ground water.
14. **Flood Areas.** The subdivider/applicant will determine if the subdivision is in a flood-prone area, based on Federal Emergency Management Agency's Flood Boundary and Flood Insurance Rate Maps, and state the determination on the Subdivision Plan. If the subdivision, or any part, is in a flood-prone area, the subdivider/applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision and require that the principal structures be constructed with their lowest floor, including the basement, at least two feet above the 100-year flood elevation.
15. **Freshwater Wetlands/Vernal Pools.** Shall be identified on subdivision maps submitted as part of the application.
16. **Farmland.** Shall be identified on subdivision maps submitted as part of the application.
17. **Streams or Brooks.** Shall be identified on subdivision maps submitted as part of the application.
18. **Storm Water.** Shall provide for adequate storm water management.
19. **Spaghetti-lots.** Are prohibited. Refer to Title 12 M.R.S.A. Section 682-A.
20. **Lake Phosphorus Concentration.** Long-term cumulative effects of the subdivision will not unreasonably increase a great pond's phosphorus



concentration during the construction phase and life of the proposed subdivision.

21. **Impact on Adjoining Municipality.** If the proposed subdivision crosses municipal boundaries, will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of public ways in an adjoining municipality in which part of the subdivision is located.
22. **Joint Municipality Meetings.** If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application shall be held jointly by the reviewing authorities from each municipality. In addition to other review criteria, the reviewing authorities shall consider and make a finding of fact regarding the impact on adjoining municipalities. Refer to Title 30-A M.R.S.A. Section 4403.
23. **Lands Subject to Liquidation Harvesting.** Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to Title 12, Section 8869, Subsection 14, or the Maine Forestry Service. Refer to Title 30-A M.R.S.A., Section 4404, Subsection 20, for details.

## ARTICLE 4 – DEFINITIONS

- 4.1 In general, words and terms used in these standards shall have their customary dictionary meanings. More specifically, certain words and terms used herein are defined as follows:

Acre	A measure of land containing 43,560 square feet.
Cluster Development	Cluster Development is the grouping of a particular development's residential structures on a portion of the available land reserving a significant amount of the site as protected open space.
Common Facility	Facility provided or installed by the developer for subdivision use, including open space; recreational areas; drainage, water and sewer treatment systems; and fire water storage tanks.
Comprehensive Plan or Policy Statement	Any part or element of the over-all plan or policy for development of the Town as defined in Title 30-A M.R.S.A., Sections 4301, Definitions and 4326, Growth Management Program Elements

Construction Drawings	Means drawings showing the location, profile, grades, size and type of drains, sewers, water mains, underground fire alarm ducts, underground power ducts and underground telephone ducts, pavements, cross-section of streets, miscellaneous structures, etc.
Dwelling Unit	A building designed and intended to be used exclusively for residential occupancy by one or more individuals living together as a family, containing living, cooking, eating, sleeping space and sanitary facilities.
Dwelling, Single Family	A building designed and intended to be used exclusively for residential occupancy by one or more individuals living together as a family.
Engineer	Municipal Engineer or consulting engineer licensed by the State of Maine.
Final Subdivision Plan	The final drawings, on which the subdivider/applicant's plan of subdivision is presented to the Planning Board for approval and which, if approved, shall be filed for record with the Municipal clerk and County Registry of Deeds.
Farmland	<p>A parcel consisting of 5 or more acres of land that is:</p> <p>A. Classified as prime farmland, unique farmland or farmland of statewide or local importance by the Natural Resources Conservation Service within the United States Department of Agriculture; or</p> <p>B. Used for the production of agricultural products as defined in Title 7 M.R.S.A., Section 152, Subsection 2.</p>

**Freshwater  
Wetlands**

Freshwater swamps, marshes, bogs and similar areas which are:

A. Inundated or saturated by surface or ground water at a frequency and for a duration sufficient to support, and which under normal circumstances do support, a prevalence of wetland vegetation typically adapted for life in saturated soils; and

B. Not considered part of a great pond, coastal wetland, river, stream or brook.

These areas may contain small stream channels or inclusions of land that do not conform to the criteria of this article.

**Great Pond**

Any inland body of water which in a natural state has a surface area in excess of 10 acres and any inland body of water artificially formed or increased which has a surface area in excess of 30 acres except for the purposes of this article, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

**Green Strip**

Existing vegetation on a subdivision lot before development.

**Homeowners  
Association**

An organization comprised of all owners of homes in the development/subdivision. The association shall be responsible for maintenance of all open space areas and other common facilities in the development/subbdivision. Refer to Articles 8.11 and 10.7.

**Legislative Body**

Town Selectmen or Town Meeting

**Liquidation  
Harvesting**

The purchase of timberland followed by a harvest that removes most or all commercial value in standing timber, without regard for long-term forest management principles, and the subsequent sale or attempted resale of the harvested land within 5 years.

Incorporated  
Town of Lyman

Town, City or Incorporated Village of Lyman.

Official Map

The map adopted by the Town of Lyman showing the location of public property, ways used in common by more than 2 owners of abutting property, and approved subdivisions; and any amendments thereto adopted by the Town of Lyman or additions thereto resulting from the approval of subdivision plans by the Planning Board and the subsequent filing for record of such approved plans. Underground wiring and cable should also be put on final plot plan.

Open Space

The area required to be set aside and protected from development in a cluster subdivision.

Parcel

A contiguous area within one municipality owned by one person or a group of persons in common or joint ownership.

Person

Includes a firm, association, organization, partnership, trust, company or corporation, as well as an individual.

Planning Board

The Planning Board of the Municipality created under Title 30-A, M.R.S.A., Chapter 187, Sections 4324-4326. This board is appointed by the Board of Selectmen to oversee Site Plan Review and Subdivision Regulations.

Preliminary  
Subdivision Plan

The preliminary drawings indicating the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

Re-subdivision

The division of an existing subdivision or any change of lot size therein or the relocation of any street or lot in a subdivision.

Road	A public or private roadway with a minimum right-of-way width of fifty (50) feet, which provides the principal means of access to two or more abutting properties, consisting of a bed of exposed mineral soil, gravel asphalt, or other surfacing material constructed for the repeated passage of vehicles, as approved by the Town Engineer.
Road Frontage	That portion of a lot that runs along an interior subdivision roadway.
Spaghetti-Lot	A lot in a proposed subdivision with shore frontage on a stream, brook, or great pond with a lot depth to shore frontage ratio greater than 5 to 1. Refer to Title 12, M.R.S.A., Chapter 206-A, Sections 682 and 682A.
Sprinkler System	An approved automatic fire protection sprinkler system shall be capable of immediately supplying water to a fire without human intervention. The system shall meet all the requirements as outlined in the applicable National Fire Protection Association (NFPA) Standard. These standards shall include NFPA 13, NFPA 13R, or NFPA 13D. The system design is required by State Law to be permitted by the State Fire Marshall's Office prior to installation.
Streams or Brooks	<p>A channel between defined banks.</p> <p>A channel is created by the action of surface water and has 2 or more of the characteristics defined in Title 38, M.R.S.A., Chapter 3, Section 480-B, Subsection 9.</p> <p>"Streams or brooks" does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining storm water or a grassy swale.</p>
Utilities	Includes electrical power lines, telephone lines, cable television lines, water and sewer lines etc.
Utilities, Public	Utilities as regulated by the Maine Public Utilities Commission.

## **ARTICLE 5 - SUBMISSION OF PLANS**

- 5.1 There shall be submitted to the Planning Board a Preliminary Plan for study, and, if necessary, modification, and there shall be submitted a final plan. The Final Plan shall not be prepared until the subdivider/applicant has received approval of the Preliminary Plan from the Planning Board. Notice of approval of a Final Plan shall be given within thirty (30) days of submission of the Final Plan to the Planning Board. Until a Final Plan is approved, no development steps shall be undertaken on the site of the subdivision.

A public hearing shall be held following the acceptance of the Preliminary Plan. When the public hearing is ordered by the Planning Board, interested parties will be notified 10 days in advance of the hearing and public notices posted.

## **ARTICLE 6 - PRELIMINARY PLAN**

- 6.1 The Preliminary Subdivision Plan shall be submitted in nine (9) copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale of 1 inch equals not more than one hundred (100) feet, showing or accompanied by the following information:
- 6.2 Location Map - The Preliminary Plan shall be accompanied by a Location Map drawn at a scale of not over four hundred (400) feet to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area.

The Location Map shall show:

1. All the area within two thousand (2,000) feet of any property line of the proposed subdivision, or;
2. Any smaller area between the tract and all surrounding existing streets, provided any part of such a street used as part of the perimeter for the Location Map is at least five hundred (500) feet from any boundary of the proposed subdivision.

Within such area the Location Map shall show:

1. All existing subdivisions and approximate tract lines of acreage parcels together with the names of the record owners of all adjacent parcels of land, namely, those directly abutting or directly across any street adjoining the proposed subdivision.
  2. Locations, widths and names of existing, filed or proposed streets, easements, building lines and alleys pertaining to the proposed subdivision and to the adjacent properties as designated in Paragraph (1), above.
  3. The boundaries and designations of zoning districts, school districts and parks or other public spaces.
  4. An outline of the proposed subdivision together with its street system and an indication of the future probable street system of the remaining portion of the tract, if the Preliminary Plan submitted covers only part of the subdivider/applicant's entire holding.
- 6.3** Name of Subdivision, owner(s) deed reference to land subdivided, and engineer(s) surveyor(s).

Deed description and map of survey of tract boundary made and certified by a registered land surveyor, tied into established reference points.

- 6.4** Graphic scale of 1" equals 100 ft., date and North point.

**6.5** Boundaries of Tract

Number of acres within the proposed subdivision. Location of property lines, existing easements, buildings, watercourses and other essential existing physical features.

- 6.6** Ownership and Location of abutting properties (showing present ownership).

- 6.7** Name, location and width of all streets. All street names shown for proposed streets located in a subdivision shall be checked against local records to assure that none are duplicates of existing street names or so similar as to cause confusion and must be approved by the E911 Officer. Typical cross section of proposed street and sidewalk showing width, depth of gravel base and crushed gravel surface, and type of pavement.

- 6.7.1** Acceptable cross section layout for proposed roads (see attached Exhibit "A").

- 6.7.2** Profiles of proposed streets showing:

1. Existing ground elevations at centerline stations.
  2. Finish grade line and numerical grades.
  3. Percent of grade for each change of grade.
  4. Length of vertical curves and external distances.
  5. Non-Passing or Headlight sight distance.
  6. Location and elevation of proposed culverts.
- 6.8** Type, location, profile, and cross-section of all existing surface water drainage. Provisions for collecting and discharging storm drainage, in the form of a drainage plan. Preliminary designs of any bridges or culverts which may be required.
- 6.9** Location of all existing utilities - water, gas, electricity or other connection with existing water supply or alternative means of providing water supply to the proposed subdivision.
- 6.10** Location of test pits demonstrating that soils suitable for the construction of subsurface wastewater disposal systems exist on all lots.

Test pits shall be excavated in the presence of the Plumbing Inspector.

A signed voucher must be submitted and signed by the Plumbing Inspector stating:

1. Subdivision Name
2. Number of pits
3. General conditions found

The above information will be submitted by the Plumbing Inspector to the Planning Board.

A fee will be assessed by the Plumbing Inspector and payable to the Town of Lyman.

- 6.11** Topography at two-foot intervals, unless otherwise prescribed by the Planning Board. In addition, the location of existing natural or man-made features influencing the layout of the proposed subdivision shall be shown.
- 6.12** Lot lines and approximate dimensions.
- 6.13** Proposed uses of property.
- 6.14** Proposed public areas to be dedicated and the conditions of such dedication.



- 6.15** The provisions of The Zoning Ordinance applicable to the area to be subdivided and any zoning district boundaries affecting the subdivision.
- 6.16** A soils report identifying the soils boundaries and names in the proposed development with the soils information superimposed upon the plot plan in accord with the USDA Soil Conservation Service National Cooperative Soil Classification. The intensity of the study must identify changes in soil conditions down to one-eighth acre. A lot by lot soils suitability determination for house building with septic sewage disposal or, if appropriate, house building with public sewage disposal, will be made in accord with the Soil Suitability Guide for Land Use Planning in Maine and will accompany the plot plan soils study.
- 6.17** The centerline of the proposed streets shall be staked and marked with preliminary plan stations in order to enable the Planning Board to readily locate and appraise the basic layout in the field.
- 6.18** A soil erosion and sediment control plan containing the endorsement of the York County Soil and Water Conservation District or the Maine Soil and Water Conservation Commission.

**6.19**

Within (60) days after acceptance by the Planning Board, the Planning Board shall take action to give preliminary approval, with or without modifications, or disapprove such Preliminary Plan. The reasons for any modification required and the grounds for approval or disapproval shall be stated upon the records of the Planning Board and conveyed to the applicant in writing. Failure of the Planning Board to act within such sixty- (60) day period shall constitute disapproval of the Preliminary Plan.

## **ARTICLE 7- FINAL PLAN FOR SUBDIVISION**

### **7.1 Other Approvals**

#### **7.1.1 D.E.P. Approval**

Approval of the Final Subdivision Plan by the Maine Department of Environmental Protection is required if the subdivision:

1. Occupies a land area in excess of 30 acres, or
2. Involves a structure or structures, having in excess of 60,000 square feet of ground area coverage, or

3. Requires a permit from the Maine Department of Environmental Protection under some other regulation such as waste discharge or air quality, or
4. In any other way falls within the jurisdiction of and is subject to review by the Maine Department of Environmental Protection.

The approval of the Maine Department of Environmental Protection shall be secured in writing before official submission of the Final Subdivision Plan.

#### **7.1.2 Water System Approval**

Water supply system proposals contained in the Final Subdivision Plan shall be approved in writing by:

1. The State of Maine, Department of Health and Welfare if the subdivider/applicant proposes to provide a central water supply system, or
2. A civil engineer registered in the State of Maine if individual wells serving each building site are to be used. The Planning Board may also require the subdivider/applicant to submit the results of water quality tests as performed by the Maine Department of Health and Engineering.

Such approval shall be secured before official submission of the Final Plan.

Maintenance of a subdivision water supply system is the responsibility of the Homeowners Association.

#### **7.1.3 Subsurface Wastewater Disposal System Approval**

Subsurface wastewater disposal systems shall be designed and constructed in accordance with current State of Maine subsurface wastewater disposal rules.

Such approval shall be secured before official submission of the Final Plan.

**7.2 Performance Guaranty:** The subdivision developer shall meet the following requirements:

**7.2.1 Form:** **Certified Check made payable to the Town of Lyman.** These funds will be deposited into an interest bearing escrow account in the name of the Town for this project. No permits shall be issued, or construction or site work begun, until funds are deposited into the escrow account.

**7.2.2 Amount:** Equal to 150% of the total cost of construction of all "required improvements". The total cost of all required improvements will be based on a construction cost "Schedule of Values" provided by the developer for review and approval by the Planning Board.

**7.2.3 Required improvements:** For the purposes of this section "required improvements" shall mean all site preparation, including but not limited to any public and private roads, all drainage structures and ditches, all erosion control measures, all common or public utilities and all required landscaping.

**7.2.4 Schedule of Values:** A construction cost breakdown of the various items of work in sufficient detail for the inspecting engineer or agent to determine the value of work completed and work remaining when the developer requests reductions in the amount of the performance guaranty. The Schedule of Values may be determined by the developer, the developer's engineer or a general contractor and will be reviewed and possibly modified by the Town's agent at the request of the Planning Board. As a minimum the Schedule of Values should address:

- Mobilization;
- Clearing & Grubbing;
- Erosion & Sediment Control;
- Stripping & Stockpiling Topsoil;
- Excavation/fill to sub grade;
- Rock Excavation;
- Stormwater Management Facilities;
- Community Water System;
- Community Sanitary Sewer System;
- Underground or Overhead Utilities (power, telephone, CATV);
- Aggregate sub base; Aggregate base;
- Riprap;
- Fire Tank (or pond & dry hydrant);
- Hot Bituminous Pavement – base course;
- Curb;
- Hot bituminous Pavement – surface course;
- Sidewalks;

- Striping;
- Street lights;
- Loam, seed, mulch & maintenance until grass is established;
- Monuments;
- Cleanup;
- Off-site improvements as applicable, and
- (Cluster development only) Restoration or development as play-fields of storage and stockpile areas in the open space area(s) of the cluster development.

**7.2.5 Timing:** Submit the Schedule of Values with the final plan for review prior to approval. Submit the performance guaranty within 45 days of approval and receive written authorization to proceed by the Municipal Officers prior to beginning work on the site. No permits shall be issued, or construction or site work begun, until funds are deposited into the escrow account.

**7.2.6 Escrow Reduction Requests:** Periodically, but no more than twice monthly, the developer may request reductions in the amount of the escrow account. The request shall be made to the Code Enforcement Officer (CEO) in writing and identify those items in the schedule of values for which reductions or partial reductions are requested. Prior to submission, if requested by the developer, or upon receipt of the request, the CEO or the Town's agent will visit the site to ascertain that the work for which the reduction is requested has been completed and render an opinion of the value of remaining work. The amount of the reduction will be based on retaining 150% of value of remaining work in the escrow account versus the value of work completed. The Town will not reduce the escrow account for materials stored on site and not incorporated into the work.

**7.2.7 Modifications to required improvements:** If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Town's agent that unforeseen conditions make it necessary or preferable to modify the location or design of any required improvement, the Town's agent may, upon approval of the CEO, authorize modifications, provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver of substantial or substantial alteration of the function of any improvements required by the Planning Board. The Town's agent shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Selectmen and the Planning Board. If modifications made under this section alter the approved subdivision plan by causing property lines or easements to be relocated, the plan shall be revised or become null and void in accordance with Article 7, Section

7.7.1. To ensure compliance with this section, one-third (33 1/3%) of the performance guaranty escrow account will be retained by the Town until a revised subdivision plan is reviewed and approved by the Planning Board.

**7.2.8 Default:** If, upon inspection, the Town's agent finds that any of the required improvements have not been constructed in accordance with the approved plans and specifications the agent shall so report in writing to the CEO, Selectmen, Planning Board and the Developer. The Selectmen shall take any steps necessary to preserve the Town's rights under the performance guaranty. No subsequent plan for another project submitted to the Planning Board by a developer who is in default on a previously approved plan shall be approved until the default is corrected.

**7.2.9 Maintenance:** The Developer shall maintain all improvements and provide snow removal on streets and sidewalks until a homeowners association assumes responsibility or the Town accepts the road and stormwater management facilities.

**7.2.10 Release:** The performance guaranty shall not be completely released by the Selectmen until the Town's agent has completed a final inspection of the project and submitted a written report stating that all required improvements have been completed in accordance with the approved plans and specifications.

### **7.3 Inspection of Required Improvements**

Subdivision required improvements shall be inspected as follows:

**7.3.1** At least five (5) days prior to commencing construction of required improvements the subdivider/applicant shall:

1. Pay an inspection fee equal to two (2) percent of the cost of the required improvements, or
2. Pay an inspection fee equal to the estimated cost of inspection by an engineer appointed by the Planning Board, whichever is less, payable by check to the Town of Lyman stating the purpose of the fee. The subdivider/applicant shall notify the Municipal Officers in writing of the time when he proposes to commence construction of such improvements so that the Municipal Officers can cause inspection to be made to assure that all municipal specifications and requirements shall be met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities.

- 7.3.2** If the Municipal Engineer or appointed engineer shall find that any of the required improvements have not been constructed in accordance with plans and specifications filed by the subdivider/applicant, he shall so report to the Municipal Officers, Building Inspector and Planning Board. The Municipal Officers shall then notify the subdivider/applicant.

No plan shall be approved by the Planning Board as long as the subdivider/applicant is in default on a previously approved Plan.

- 7.3.3** If at any time before or during the construction of the required improvements it is demonstrated to the satisfaction of the Municipal Engineer or appointed engineer that unforeseen conditions make it necessary or preferable to modify the location or design of such required improvements, the Municipal Engineer or appointed engineer may, upon approval of the Planning Board, authorize modifications provided these modifications are within the spirit and intent of the Planning Board's approval and do not extend to the waiver or substantial alteration of the function of any improvements. The Municipal Engineer or appointed engineer shall issue any authorization under this section in writing and shall transmit a copy of such authorization to the Planning Board at its next regular meeting.
- 7.3.4** The subdivider/applicant shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of said improvements by the legislative body.
- 7.3.5** Before a subdivider/applicant may be released from any obligation required by his guarantee of performance, the Planning Board will require certification from the Municipal Engineer or appointed engineer and whatever other agencies and departments that may be involved, to the effect that all improvements have been satisfactorily completed in accordance with all applicable standards, State and local codes and ordinances.

#### **7.4 Final Subdivision Plan**

The Final Subdivision Plan shall contain:

1. All the information required for the Preliminary Plan.
2. Existing and final proposed lines of streets, ways, lots, easements for utilities and/or drainage and public areas within the subdivision. Final dimensions of lots shall be shown and areas per lot in square feet.

3. Sufficient data, such as road profile, USGS Datum Preferably NAD 83 Coordinates, cross-section radius of curves, angles of change in direction and center line length of all existing and/or proposed streets, other public ways building lines and easements in the subdivision, to determine the exact location, direction, and length of every street line easement, lot line and boundary line and to reproduce these lines upon the ground.
4. Location of all permanent monuments existing and/or proposed.
5. Lot numbers and letters in accordance with the prevailing policy or as acceptable to assessors for tax purposes.
6. The name, registration number, and seal of the land surveyor, architect, engineer or planning consultant who prepared the plan.

## **7.5 Final Subdivision Plan Submission**

The Final Subdivision Plan package shall include:

1. Written offers of cession to the Municipality of all public open space shown on the Plan, and copies of agreements or other documents showing the manner in which spaces, title to which is reserved by the subdivider/applicant are to be maintained.
2. Written evidence that the Municipal Officers are satisfied with the legal sufficiency of the documents referred to in Paragraph (1) above. Such written evidence shall not constitute an acceptance by the Municipality of any public open space referred to in Paragraph (1), above.

## **7.6 Final Approval and Filing**

**7.6.1** The Planning Board shall, within thirty (30) days from the public hearing, approve, modify and approve, or disapprove the Final Plan. The reasons for any modifications required or the grounds for approval or disapproval shall be stated on the records of the Planning Board and conveyed to the applicant in writing. Failure of the Planning Board to act within such thirty- (30) day period shall constitute disapproval of the Final Plan.

**7.6.2** Upon completion of the requirements in Articles 7.5 and 7.6.1 above and notation to that effect upon the Plan, it shall be deemed to have final approval and shall be properly signed by a majority of the members of the Planning Board and shall be filed by the applicant with the Municipal Officers. The Plan shall then be filed with the York County Registry of Deeds. Any Subdivision Plan not so filed or recorded within

ninety (90) days of the date upon which such Plan is approved and signed by the Planning Board as herein provided shall become null and void, unless the particular circumstances of said applicant warrant the Planning Board to grant an extension which shall not exceed two additional periods of ninety (90) days

- 7.6.3** At the time the Planning Board grants Final Plan approval, it may permit the Plan to be divided into two or more sections subject to any conditions the Planning Board deems necessary in order to ensure the orderly development of the Plan. The subdivider/applicant may file a section of the approved Plan with the Municipal Officers and the Registry of Deeds if said section constitutes at least 10% of the total number of lots contained in the approved Plan. In these circumstances, Plan approval of the remaining sections of the Plan shall remain in effect for three years or a period of time mutually agreed to by the Municipal Officers, Planning Board and the subdivider/applicant.

## **7.7 Plan Revisions after Approval**

No changes, erasures, modifications, or revisions shall be made in any Final Plan after approval has been given by the Planning Board and endorsed in writing on the Plan, unless the Plan is first resubmitted and the Planning Board approves any modifications. In the event that a Final 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 Plan stricken from the records of the Municipal Officers and the Registry of Deeds.

## **7.8 Public Acceptance of Streets, Recreation Areas**

- 7.8.1** The approval by the Planning Board of a Subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the Municipality of any street, easement, or other open space shown on such Plan.
- 7.8.2** The procedure for street acceptance by the town is dictated by the Town of Lyman Street Acceptance, Design and Construction Standards Ordinance adopted by the Town on November 5, 2019.
- 7.8.3** When a park, playground, or other recreation area shall have been shown on the Plan, approval of the Plan shall not constitute an acceptance by the municipality of such areas. The Planning Board shall require the Plan to be endorsed with appropriate notes to this effect. The Planning Board may also require the filing of a written agreement between the applicant and the Municipal Officers covering future deed



and title, dedication, and provision for the cost of grading, development, equipment, and maintenance of any such recreation area.

## **ARTICLE 8 - STANDARDS**

### **8.1 Town of Lyman Subdivision Ordinance Requirements**

**8.1.1** Subdivisions must be above floodplain level in accordance with the current FEMA regulations.

**8.1.2** Within the boundaries of the plan, each lot that is to be offered for sale, or is sold, must be such that any buyer, with or without a knowledge of the lot physical characteristics, will be able to build thereon, a reasonable abode with adequate access, and adequate sewerage disposal system.

**8.1.3** When available, public water and public sewer services shall be provided.

**8.1.4** Storm sewers, either closed or open, must be shown on the plan and must be adequate to carry the runoff generated by a 50 year rainfall event.

**8.1.5** The public access roads included in the plan must be built by the applicant prior to the issuance of occupancy permits. The roads must meet the minimum specifications for roads as approved by the Town of Lyman and specified herein.

**8.1.6** All lots within the subdivision shall be as specified in Article 6.2 of the Lyman Zoning Ordinance and lots within the Shoreland must comply with dimensional requirements of the Shoreland Zoning Ordinance Section 15.

**8.1.7** Each lot in the General Purpose Zone must abut on a road with no less than 375 feet of frontage on said road and must have access at grades not exceeding 10% to the said road.

Each lot in the Residential Zone must abut on a road with no less than 300 feet of frontage on said road and must have access at grades not exceeding 3% to the said road.

The Planning Board may approve the creation of Back Lots within the

subdivision upon separate written request of the applicant. Before the creation of any Back Lot is approved, the Planning Board must make written findings that the following criteria are met.

1. Unique circumstances exist on the lot, in which the shape of the lot prohibits the creation of road frontage that would otherwise be required under the Town's Ordinances.
2. Use of Back Lots will significantly minimize the impacts to one or more environmental elements of the lot.
3. The use of Back Lots will not circumvent the substantive requirements of these Regulations.
4. No more than three (3) Back Lots will be created within the subdivision.

**8.1.8** All new dwelling units shall be protected by an approved automatic sprinkler system installed under the following standards: NFPA 13, NFPA 13R, NFPA 13D or as permitted by the Office of the State Fire Marshall and approved by the Fire Department.

## **8.2 Monuments**

- 8.2.1** Permanent monuments shall be set at all corners and angle points of the subdivision boundaries; and at all street intersections and points of curvature.
- 8.2.2** Monuments defining the road right of way and the boundaries of the subdivision shall be stone 5"x 5" x 4' located and set at least 6" above final grade level, and indicated on the Final Plan. After they are set, drill holes, one-half inch deep shall locate the point or points described above.
- 8.2.3** Monuments at internal lot corners and angle points may be number 5 rebar four feet long minimum, and capped to identify surveyor.

## **8.3 Street Signs**

- 8.3.1** Streets, which join or are in alignment with streets of abutting or neighboring properties, shall bear the same name. Names of new streets shall not duplicate, nor bear phonetic resemblance to the names of existing streets within the municipality and shall be subject to the approval of the E911 Officer.

**8.3.2** Street name signs and traffic control signs shall be furnished and installed by the subdivider/applicant. The type, size and location shall be to the approval of the Road Commissioner.

## **8.4 Roads**

### **8.4.1 Classification**

In accordance with the Comprehensive Plan of the Town of Lyman and for the purposes of these standards, roads are classified by function, as follows:

1. **Major Roads:** The term "Major Roads" includes Arterial roads which serve primarily as major traffic ways for travel between and through towns; and Collector roads, which serve as feeders to arterial roads, as collectors of traffic from minor streets and for circulation and access in commercial and industrial areas.
2. **Minor Roads:** Roads which are used primarily for access to abutting residential, commercial or industrial properties.

### **8.4.2 Road/Street Specifications**

All proposed roads shall be designed in accordance with the Town of Lyman Street Acceptance, Design and Construction Standards Ordinance adopted by the Town on November 5, 2019.

### **8.4.3 Layout**

- 8.4.3.1** Where a proposed subdivision would use an existing private road (s) for access, provision shall be made requiring the subdivision developer and / or lot owners to contribute fairly to the cost of maintenance, repair, and replacement of such road (s).
- 8.4.3.2** Reserve strips controlling access to streets shall be prohibited except where their control is definitely placed in the Town under conditions approved by the Planning Board.
- 8.4.3.3** In front of areas zoned and designed for commercial use, or where a change of zoning to a zone which permits commercial use is contemplated by the Town of Lyman, the street right-of-way and/or pavement width shall be increased by such amount on each side as may be deemed necessary by the Planning Board to assure the free flow of through traffic without

interference by parked or parking vehicles, and to provide adequate and safe parking space for such commercial or business district. In no case shall the street have a right-of-way width less than 60 feet nor have less than 2 twelve-foot travel lanes and 2 eight-foot parking lanes.

**8.4.3.4** Adequate off-street loading space, suitably surfaced, shall be provided in connection with lots designed for commercial use.

**8.4.3.5**

Where a subdivision borders an existing narrow road (below standards set herein) or when the Comprehensive Plan indicates plans for realignment or widening of a road that would require use of some of the land in the subdivision, the subdivider/applicant shall be required to show areas for widening or realigning such roads on the Plan, marked "Reserved for Road Realignment (or Widening) Purposes." It shall be mandatory to indicate such reservation on the Plan when a proposed widening or realignment is shown on the Official Map. Land reserved for such purposes may not be counted in satisfying setbacks or yard or area requirements of the Zoning Ordinance.

**8.4.3.6** Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Board may require marginal access streets (street parallel to arterial street providing access to adjacent lots), reverse frontage (that is, frontage on a street other than the existing or proposed arterial street) with screen planting contained in a non-access reservation along the rear property line, or such other treatments as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.

**8.4.3.7** Minor Roads in the subdivision shall be laid out so that their use by through traffic will be discouraged.

**8.4.3.8** All roadways within the subdivision shall be constructed according to the Town of Lyman Street Acceptance, Design and Construction Standards Ordinance adopted by the Town on November 5, 2019.

**8.4.3.9** Occupancy Permits may only be issued upon completion of the base coat of pavement of all subdivision roads.

#### **8.4.4 Planting**

**8.4.4.1** All esplanade or planting strip areas at sides of streets shall receive at least 6 inches of compacted screened loam-free of stones over one inch in diameter. Base materials shall be removed prior to placement of topsoil.

##### **8.4.4.2**

Planting strips to be limed at the rate of one pound per ten sq. feet and fertilized at the rate of one pound of a 10-10-10 fertilizer per fifty sq. feet or equivalent and seeded with a conservation mix endorsed by the York County Soil and Water Conservation District.

**8.4.4.3** When required by the Planning Board, street trees shall be planted in the esplanade areas of all new streets.

**8.4.4.4** Trees of the 1<sup>st</sup> magnitude (e.g., Birch, Beech, Linden, Oak, Pine, Sugar Maple, Basswood) shall be planted at 40-60 foot intervals.

**8.4.4.5** Trees of the 2<sup>nd</sup> magnitude (Hawthorn, Flowering Crabapple, etc.) may be planted at intervals of less than 40 feet.

#### **8.5 Sidewalks**

**8.5.1** If required by the Planning Board, sidewalks shall be installed at the expense of the subdivider/applicant where the subdivision abuts or fronts onto a major street, and along all subdivision roads.

**8.5.2** Sidewalks when installed shall meet the minimum requirements as follows:

1. The gravel base shall not be less than six (6) inches in thickness.
2. The crushed gravel surface course with 100 per cent passing the 1.25 inch screen shall not be less than two (2) inches in thickness.
3. The Hot Bituminous/ Hot-Top/ Concrete surface shall be less than two (2) inches in thickness after compaction.

## **8.6 Water Supply**

- 8.6.1** A public water supply system with fire hydrants, or a system of fire Protection acceptable in writing by the Fire Department, shall be installed at the expense of the subdivider/applicant, or, if in the opinion of the Planning Board, service to each lot by a public water system is not feasible, the Planning Board may allow individual wells to be used, which shall likewise be installed at the expense of the subdivider/applicant.
- 8.6.2** The subdivider/applicant shall demonstrate by actual test or by a signed affidavit from an authorized representative of the servicing water company that water meeting Public Health Service, Drinking Water Standards, 1962, can be supplied to the subdivision at the rate of at least 350 gallons per day per dwelling unit and at an adequate pressure required for operation of a sprinkler system.
- 8.6.3** Water storage shall be provided as necessary to meet peak domestic demands and fire protection to support a residential sprinkler system.
- 8.6.4** The subdivider/applicant shall demonstrate in the form of signed affidavits from the servicing water company or by engineering reports proposed by a civil engineer registered in the State of Maine, that the proposed subdivision will not result in an undue burden on the source, treatment facilities or distribution system involved, or provide adequate assurance that such source, treatment facility or distribution system will be modified to meet the expanded needs.
- 8.6.5** The minimum water-main permitted shall be 6-inch and shall be installed at the expense of the subdivider/applicant, if or when applicable.
- 8.6.6** The water supply system shall be designed, and installed in accordance with requirements of the Maine Department of Health and Engineering.
- 8.6.7** All subdivisions are required to provide drilled wells.
- 8.6.8** If a central water supply system is provided by the subdivider/applicant, location and protection of the source, and design, construction, and operation of the distribution system and appurtenances and treatment facilities shall conform to the recommendations included in the Manual for Evaluation Public

Drinking Water Supplies, Public Health Service No. 1180 (1969) or revisions to the most recent dates.

- 8.6.9** Maintenance of central water distribution, water storage, and underground storage facility(s) for fire protection shall be the responsibility of the Homeowners Association.

## **8.7 Sewage Disposal**

- 8.7.1** A sanitary sewer system shall be installed at the expense of the subdivider/applicant, or, if in the opinion of the Planning Board, service to each lot by a sanitary sewer system is not feasible, the Planning Board may allow individual septic tanks to be used, which shall likewise be installed at the expense of the subdivider/applicant. In no instance shall a septic disposal system be allowed in soils rated poor or very poor for such purpose by the Soil Suitability Guide for Land Use Planning in Maine.
- 8.7.2** A developer shall submit plans for sewage disposal designed by a professional civil engineer in full compliance with the requirements of the State of Maine Plumbing Code.
- 8.7.3** Where a public sanitary sewer line is located within 1500 feet of a proposed subdivision at its nearest point, the subdivider/applicant shall connect with such sanitary sewer line with a main not less than 8 inches in diameter, provided the appropriate municipal agencies certify that extending the services will not be a burden on the system.
- 8.7.4** Maintenance of a subdivision sanitary sewer system shall be the responsibility of the Homeowners Association.

## **8.8 Surface Drainage**

- 8.8.1** Where a subdivision is traversed by a watercourse, drainage way or storm drain pipe, or where the Planning Board determines that runoff from the developed subdivision should be controlled for the protection of the subdivision and owners of property abutting it, there shall be provided an easement or drainage right-of-way and culverts, catch basins or other means of channeling surface water within such subdivision and over the property of owners abutting upon it, of such nature, width and location as the Planning Board or Municipal Engineer deems adequate or other agency or firm designated by the Town. All cost incurred for the review to be paid by the developer.

- 8.8.2** The developer shall provide a statement from a civil engineer, registered in the State of Maine, that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or in adjacent properties. The developer shall submit a surface drainage plan showing ditching, culverts, easements and other proposed improvements.
- 8.8.3** Topsoil shall be considered part of the subdivision. Except for surplus topsoil for roads, parking areas and building excavations, it is not to be removed from the site.
- 8.8.4** Except for normal thinning and landscaping, existing vegetation shall be left intact to prevent soil erosion. The Planning Board, at its discretion, may require a developer to take additional measures to correct and prevent soil erosion in the proposed subdivision.
- 8.8.5** The Town of Lyman Shoreland Zoning Ordinance applies to all land areas within 250 feet, horizontal distance, of the normal high-water line of any great pond or river, or upland edge of a freshwater wetland, and all areas within 75 feet, horizontal distance, of the normal high-water line of a stream.

Refer to the Shoreline Zoning Ordinance, Article 15, Land Use Standards; Sections : P. Clearing or Removal of Vegetation for Activities Other Than Timber Harvesting, Q. Erosion and Sedimentation Control, and R. Soils, for requirements to prevent soil erosion and restrictions on tree cutting in the shoreline zone.

## **8.9 Storm Drainage Design Standards**

- 8.9.1** Adequate provision shall be made for the disposal of all storm water collected in the streets and areas tributary to the street system and underground water, through ditches, culverts, underdrain and/or storm water drainage systems.
- 8.9.2** All stormwater management systems shall be designed by a professional engineer registered in the State of Maine to accommodate the flow generated by a rainfall with a 25-year frequency as determined by the Maine Department of Environmental Protection (DEP) under Title 38 M.R.S.A., Chapter 3, Sections 481-490, Site Location of Development (Site Law) or Title 38 M.R.S.A., Chapter 3, Section 420-D (Stormwater Law), stormwater management systems and facilities shall be designed as required by those laws.



**8.9.3** An underdrain system, designed by a professional engineer registered in the State of Maine shall be installed to properly drain all springs or areas where the ground water would cause a hazard to the stability of the road base.

**8.9.4** The subdivider/applicant shall demonstrate to the satisfaction of the Planning Board that the storm drainage from upstream areas and the proposed subdivision will not, in any way, overload existing downstream drainage systems.

**8.9.5** That all provisions of this section have been met shall be attested by the signature and stamp of a professional engineer registered in the state of Maine.

#### **8.10 Storm Drainage Construction Standards**

**8.10.1** Materials utilized for storm drainage construction shall be in conformity with State of Maine Specifications for Highway and Bridges, using the most current edition at time of construction.

**8.10.2** Cross culverts shall not be less than fifteen (15) inches in diameter with a minimum of eighteen (18) inches of cover between the top of the culvert and the road surface. Driveway culverts shall not be less than twelve (12) inches in diameter with a minimum cover of twelve (12) inches between the top of the culvert and the driveway surface.

**8.10.3** Drainage shall be straight in both vertical and horizontal alignment.

**8.10.4** Catch basins shall be installed at all changes in vertical and horizontal alignment, and at all junctions. In straight runs, catch basins shall be placed at a maximum of 300-foot intervals. Catch basins shall have free flow outlets and shall not act as dry wells.

#### **8.11 Homeowners Association**

1. An organization comprised of all owners of homes in the development/subdivision, designated as a Homeowners Association, shall be responsible for maintenance of all open space areas and other common facilities in the development/subbdivision.

2. A homeowners association must be formed, and the bylaws of the homeowners association must specify maintenance responsibilities for the development and the open space, if any. The bylaws must be reviewed by the Planning Board and the Town Attorney and any necessary changes made prior to the Planning Boards approval of the development plan.
3. All owners of lots within the development shall be required to be members of the homeowners association. Each lot deed in the development shall include a covenant setting forth the requirements of membership in the association, together with rights and interest in any open space and common facilities. The covenant shall be reviewed and approved by the Planning Board and the Town Attorney. There shall be a note included on the subdivision plan setting forth the requirement of membership in the homeowners association.
4. The homeowners association shall be responsible for maintaining any open space and any other common facilities, including sanitary sewer system, water storage and distribution system, and underground storage facilities for fire protection.
5. The developer shall be a member of the homeowners association and responsible for each unsold lot in the cluster development. The developers' membership in the Association may be terminated once all of the lots are sold by sending a written notice to the Lyman Planning Board and the Association stating that all the lots are sold, along with the date of the last sale, and the name (s) of the new owner (s).
6. The homeowners association must levy fees against all property owners to defray the expenses connected with the maintenance of any undeveloped land, and other common and recreational facilities and easements.

## **ARTICLE 9 - GENERAL REQUIREMENTS**

### **9.1 General Requirements**

In reviewing applications for the subdivision of land, the Planning Board shall consider the following general requirements. In all instances the burden of proof shall be upon the person proposing the subdivision.

## **9.2 Subdivision Plan Shall Conform to Comprehensive Plan**

Any proposed subdivision shall be in conformity with a Comprehensive Plan or policy statement of the municipality and with the provisions of all pertinent state and local codes and ordinances.

## **9.3 Relationship of Subdivision to Community Services**

**9.3.1** Any proposed subdivision shall be reviewed by the Planning Board with respect to its effect upon existing services and facilities. The Final Plan shall include a list of the construction items that will be completed by the developer prior to the sale of lots; and the list of construction and maintenance items that may be borne by the municipality, which shall include, but not be limited to:

- Schools, including busing
- Road maintenance and snow removal
- Police and fire protection
- Solid waste disposal
- Recreation facilities
- Runoff water disposal drainage ways and/or storm sewer enlargement with sediment traps

**9.3.2** The Planning Board shall further require the developer of a Subdivision to provide accurate cost estimates to the town for the above services, and the expected tax revenue of the subdivision.

## **9.4 Retention of Proposed Public Sites and Open Spaces**

**9.4.1** Depending on the size and location of the subdivision, the Planning Board may require the developer to provide up to 10% of his total area for recreation. It is desirable that areas reserved for recreation be at least 5 acres in size and easily accessible from all lots within the subdivision.

**9.4.2** Land reserved for park and/or recreational purposes shall be of a character, configuration and location suitable for the particular use intended. A site to be used for active recreation purposes, such as a playground or a playfield, should be relatively level and dry, have a total frontage on one or more streets of at least 200 feet, and have no major dimensions of less than 200 feet. Sites selected primarily for scenic or passive recreation purposes shall have such access as the Planning Board may deem suitable and shall have no less than 25 feet of road frontage. The configuration of such sites shall be deemed adequate by the Planning Board with regard to scenic

attributes to be preserved together with sufficient areas for trails, lockouts, etc. where necessary and appropriate.

**9.4.3** Where the proposed subdivision is located on a lake, pond, or stream, a portion of the waterfront area, when feasible, shall be included in the reserved land. The land so reserved shall be at least 200 feet wide measured perpendicularly from the normal high water mark.

**9.4.4** If the Planning Board determines that the reservation of land for parks and/or recreational purposes would be inappropriate, the Planning Board may waive the requirement of land reservation on the condition that the subdivider/applicant deposits a cash payment in lieu of land reservation with the town clerk. Such payment shall be placed in a trust fund to be used exclusively for the purchase and development of neighborhood sites for parks, playgrounds and other recreational purposes. The amount of such payment shall be determined on a case basis for each lot approved on the Final Plan.

**9.4.5** The Planning Board may further require that the developer provide space for future municipal uses, in accordance with a Comprehensive Plan or Policy statement, on a reimbursable basis with a finite term option as determined by the Planning Board, after which the space may be sold for other development.

## **9.5 Preservation of Natural and Historic Features**

The Planning Board may require that a proposed subdivision design include a landscape plan that will show the preservation of existing trees (10" or more), 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 far as possible.

## **9.6 Land Not Suitable for Development**

**9.6.1** The Planning Board shall not approve such portions of any proposed subdivision that:

1. Are situated below sea level
2. Are located on land which must be filled or drained or on land created by diverting a watercourse: except the Planning Board may grant approval if a central sewage collection and treatment

system is provided. In no instance shall the Planning Board approve any part of a subdivision located on filled tidal wetlands or filled or drained Great Ponds (natural body of water 10 acres or more in size).

3. Employs septic sewage disposal and is located on soils rated poor or very poor by the Soil Suitability Guide for Land Use Planning in Maine. Where soils are rated fair for septic sewage disposal, the minimum lot size shall be one acre, 43,560 square feet.

## **9.7 Shoreland Zoning Requirements**

Wherever situated, in whole or in part, within 250 feet of the high water line of any pond, lake, river or tidal waters, a proposed subdivision shall conform to the requirements of the Town of Lyman Shoreland Zoning Ordinance.

## **9.8 Lots**

- 9.8.1** The lot size, width, depth, shape and orientation and the minimum building setback lines shall be appropriate for the location of the subdivision and for the type of development and use contemplated as regulated by local ordinances.
- 9.8.2** Depth and width of properties reserved or laid out for all purposes shall be adequate to provide for off-street parking and service facilities for vehicles required by the type of use and development contemplated as regulated by local ordinances.
- 9.8.3** The subdividing of the land shall be such as to provide that all lots shall have a minimum frontage as required by the zoning district requirements.
- 9.8.4** Double frontage lots and reverse frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet, across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.
- 9.8.5** Side-lot lines shall be substantially at right angles or radial to street lines.

**9.8.6** Where a tract is subdivided into lots substantially larger than the minimum size required in the Zoning District in which a subdivision is located, the Planning Board may require that streets and lots be laid out so as to permit future re-subdivision in accordance with the requirements contained in these standards.

**9.8.7** All sections of Section 9.8 must conform to local zoning ordinances.

## **9.9 Utilities**

**9.9.1** The size, type and location of public utilities, such as street lights, electricity, telephones, gas lines, fire hydrants, etc. shall be approved by the Planning Board and installed in accordance with local Building Codes and Regulations.

**9.9.2** Utilities shall be installed underground except as otherwise approved by the Planning Board.

## **9.10 Additional Requirements**

**9.10.1** Street trees, esplanades, and open green spaces may be required at the discretion of the Planning Board. Where such improvements are required, they shall be incorporated in the Final Plan and executed by the subdivider/applicant as construction of the subdivision progresses.

**9.10.2** The subdivision design shall minimize the possibility of noise pollution either from within or without the development (from highway or industrial sources) by providing and maintaining a green strip at least 20 feet wide between abutting properties that are so endangered.

## **ARTICLE 10 – CLUSTER DEVELOPMENT STANDARDS**

### **10.1 Purpose:**

The purpose of cluster development is to encourage the preservation of the rural character of the Town of Lyman by preserving undeveloped land, to include forested land, farmland and other undeveloped land within the Town. This can be accomplished by allowing cluster type development, which allows homes to be built on lots which are smaller than required in the district, but requires undeveloped land to be preserved. In a cluster development streets and utility lines are usually shorter, thus allowing development at a lower construction cost initially and lower maintenance costs in the future.

### **10.2 Location and Density:**

Cluster Development in accordance with this section shall be allowed in the Residential District, the Commercial/Residential District and the General Purpose District, but not within a FEMA mapped flood zone. Cluster developments are not allowed within the Shoreland District. Land within the shoreland district may be used in calculating the allowed density for a project that is located partially within the Shoreland District and partially outside of it, but no cluster development shall occur within the Shoreland District.

Cluster development shall mean a development of single family detached residential homes that permits lots with dimensions, frontages and setbacks reduced from conventional lot sizes, provided that the density of the tract as a whole shall not be greater than the density allowed by the zoning district for non-cluster development, and the remaining area is retained as permanently preserved open space. The Planning Board must determine that the cluster approach will provide a development plan which provides open space, and prevents the loss of natural features.

### **10.3 Application Procedure:**

1. In order to qualify for consideration under this Article, two plans must be submitted with one plan showing a standard subdivision and the second as a clustered development indicating open space and significant natural features. Each lot in the standard subdivision shall meet the minimum lot size and width requirements of the ordinance for the zoning district in which it is located, and if not serviced by public sewer, shall have an area (s) suitable for subsurface waste water disposal according to the Maine Subsurface Wastewater Disposal Rules.

The number of allowable lots or dwelling units (Net Residential Acreage) in the cluster development shall in no case exceed the number of lots or dwelling units permitted in the standard subdivision as shown on the plan submitted.

2. The net residential acreage is calculated by taking the total area of the lot and by subtracting from that area the following:
  - A. Portions of the lot covered by surface water
  - B. Portions of the lot shown to be in the floodway as designated in the Flood Boundary and Floodway Maps prepared by the Federal Emergency Management Agency. Or by using a FEMA letter of map amendments known as a LOMA, or a letter of map revision known as a LOMR.
  - C. Portions of the lot subject to a right-of-way (s)
  - D. Portions of the lot to be used for roads and parking.
3. Site Design Standards:
  - A. Cluster development must meet all requirements for a subdivision other than those zoning standards that may be modified under this Article, and all other applicable town ordinances.
  - B. Each building must be an element of the overall plan for site development. The developer must specify the placement of building envelopes and the treatment of open spaces, paths, roads, utility service, and parking.
  - C. A high-intensity soil survey must be submitted. No building may be constructed on soil classified as being very poorly drained.
  - D. No building shall be located within 100 feet of a waterbody or wetlands.
  - E. No house lot for a single family dwelling shall be smaller than 43,560 square feet or larger than 55,000 square feet in the Residential and Commercial/Residential Districts, with no less than 75,680 square feet of additional land set aside as open space to total no less than three (3) acres per single-family dwelling. The land to be set aside for open space purposes does not have to be contiguous with the



house lot, provided that the required amount of land for each lot is located somewhere on the parcel to be developed as a cluster.

- F. No house lot for a single family dwelling shall be smaller than 43,560 square feet or larger than 55,000 square feet in the General Purpose District with no less than 162,800 square feet of additional land set aside as open space to total no less than five (5) acres per single-family dwelling. The land to be set aside for open space purposes does not have to be contiguous with the house lot, provided that the required amount of land for each lot is located somewhere on the parcel to be developed as a cluster.
- G. All open space shall be considered common land and the interest shall be divided equally among all land owners.
- H. Road frontage shall not be less than 150 feet or more than 200 feet for each house lot
- I. No individual lot or dwelling unit may have direct vehicular access onto a public road existing at the time of development.
- J. The developer shall provide for the construction of underground storage facility(s) for fire protection. Size and the number of facilities required shall be determined by the Planning Board based on Fire Department recommendations. Maintenance of this facility is the responsibility of the Homeowners Association.
- K. Utilities must be installed underground.
- L. The location of all subsurface wastewater disposal systems and an equivalent reserve area for replacement systems must be shown on the plan. The reserved areas must be deed restricted with language not allowing any construction such as decks, storage buildings, pools and the like within the replacement area. Subsurface wastewater disposal systems and the reserved area for replacement systems shall not be located in the required open space area.
- M. The report of a licensed Site Evaluator must accompany the plan. If the subsurface disposal system is an engineered system, approval from the State Department of Health Engineering must be obtained prior to Planning Board approval.
- N. In order to meet state requirements for separation distances between drinking water wells and septic systems, private drinking water wells may be located in areas designated as open space if the

Local Plumbing Inspector (LPI) determines that there is no other way to meet the code requirements.

#### **10.4 Creation and Maintenance of Open Space and Any Common Facilities.**

1. The open space is that area which is not included in the residential lots. There shall be no further subdivision of the open space. The open space may be used only for agriculture, forestry conservation, or non-commercial recreation. However, easements for public utilities, or structures accessory to non-commercial recreation may be approved by the Planning Board after review.
2. Upland areas of the open space may be used as storage or stockpile areas during construction of the cluster development provided that such area(s) is (are) either restored to a condition similar to that which existed prior to commencement of the development or developed into a field for active recreation in accordance with the requirements of Sections 10.5 and 10.6.

#### **10.5 Restoration**

1. The applicant shall delineate the limits of stockpile and storage areas on the Subdivision Plan.
2. The applicant shall take photographs of the area to be used for storage and stockpiling and submit them to the Planning Board with the Preliminary Plan.
3. The applicant shall provide a restoration plan or plans of storage and stockpile areas specifying grading, topsoil specifications (source, composition & depth) and plantings (grass, trees and under story plantings).

#### **10.6 Development of Fields for Active Recreation.**

1. The applicant shall delineate limits of stockpile and storage areas on the Subdivision Plan.
2. The applicant shall provide a plan or plans of storage and stockpile areas to be developed as play-fields specifying grading, topsoil specifications (source, composition & depth), grass seed mix with application rate. The field(s) shall be graded to drain and the cross slope shall not exceed two (2) percent.

3. The applicant shall specify a maintenance schedule (mowing, raking, reseeding as necessary) and maintenance responsibilities that shall be included in the Homeowners Association documents.
4. There shall be a separate item in the schedule of values provided with the performance guaranty described in Article 7, section 7.2 of the Town of Lyman Subdivision Standards for the restoration or development as play-fields of storage and stockpile areas in the open space area(s) of the cluster development. The money in the escrow account for this item shall not be released by the Town of Lyman until the restored area(s) or area(s) developed as play-fields are completed to the satisfaction of the Code Enforcement Officer and the Town Engineer.
5. The open space shall be shown on the development plan, with the appropriate notation(s) that indicate:
6. That the open space shall not be subdivided or used for future buildings development; and
7. That the homeowners association shall own and maintain the open space.

#### **10.7 Homeowners Association.**

Refer to the requirements of Article 8.11, Homeowners Association.

#### **10.8 Buffering**

1. That portion of the cluster development which abuts a street or road not in the cluster development and areas along the exterior boundaries of the cluster development must be designed as a continuous landscaped buffer area not less than 75 feet in width. This buffer area may contain no structures or streets other than a street providing access to the cluster development. The first 50 feet of the buffer strip, as measured from the exterior boundaries of the development must contain natural vegetation.
2. No structure may be built within 75 feet of the internal road or street right of way boundary in a cluster development.
3. No structure may be built within 40 feet of an internal side or rear property line.

**All other standards within the Town of Lyman Land Development and Subdivision Standards shall apply to Cluster Housing Development Standards**

## **ARTICLE 11 - ENFORCEMENT**

- 11.1** No plan of a subdivision of land within the municipal boundaries which would constitute a subdivision as defined herein shall hereafter be filed or recorded in the Registry of Deeds until a Final Plan thereof shall have been approved by the Planning Board in accordance with all of the requirements, design standards, and construction specifications set forth elsewhere in these standards, nor until such approval shall have been entered on such Final Plan by the Planning Board.
- 11.2** No person, firm, corporation or other legal entity may sell, lease, convey for consideration, or offer or agree to sell, lease or convey for consideration any land in a subdivision which has not been approved by the Planning Board and recorded in the Registry of Deeds.
- 11.3** When a violation of any provision of these Subdivision Standards, or any other Local, State, or Federal Land Use regulation is found to exist, the Municipal Officers may designate the Code Enforcement Officer or the Town Attorney or both to institute any and all actions and proceedings that are equitable and appropriate to enforce any and all Ordinances and Regulations using Title 30-A M.R.S.A. Section 4452, Enforcement of Land Use laws and Ordinances, and Rule 80K of the Maine Rules of Civil Procedure.
- 11.4** Any person, firm or corporation being the owner or having control or use of any building, premises, property or the like who violates any provision of these Subdivision Standards, if found guilty, shall be subject to civil penalties as per Title 30-A M.R.S.A. Section 4452, Enforcement of Land Use laws and Ordinances.
- 11.5** No public utility, water district, sanitary district or any utility company of any kind shall install services to any lot in a subdivision for which a Final Plan has not been approved by the Planning Board.
- 11.6** Not only is making a subdivision without Planning Board approval a violation of law, but also within such subdivision is grading or construction of roads, grading of land or lots, or construction of buildings until such time

as a Final Plan of such subdivision shall have been duly prepared, submitted, reviewed, approved, and endorsed as provided in these standards, and until the original copy of the Final Plan so approved and endorsed has been duly recorded in the York County Registry of Deeds.

## **ARTICLE 12 – WAIVERS AND MODIFICATIONS**

- 12.1** The subdivider/applicant may submit written justification to the Planning Board for a waiver to/modification of these Subdivision Standards. Where the Planning Board finds that extraordinary and unnecessary hardships may result from strict compliance with these standards or where there are special circumstances of a particular Subdivision Plan, it may modify these standards so that substantial justice may be done and the public interest secure; provided that such modifications will not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, or the Zoning ordinance.
- 12.2** Where the Planning Board finds that, due to special circumstances of a particular Plan, the provision of certain required improvements is not requisite in the interest of public health, safety, and general welfare, or is 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.
- 12.3** In granting waivers and/or modifications, the Planning Board shall require such conditions as will, in its judgement, secure substantially the objectives of the requirements so varied or modified.

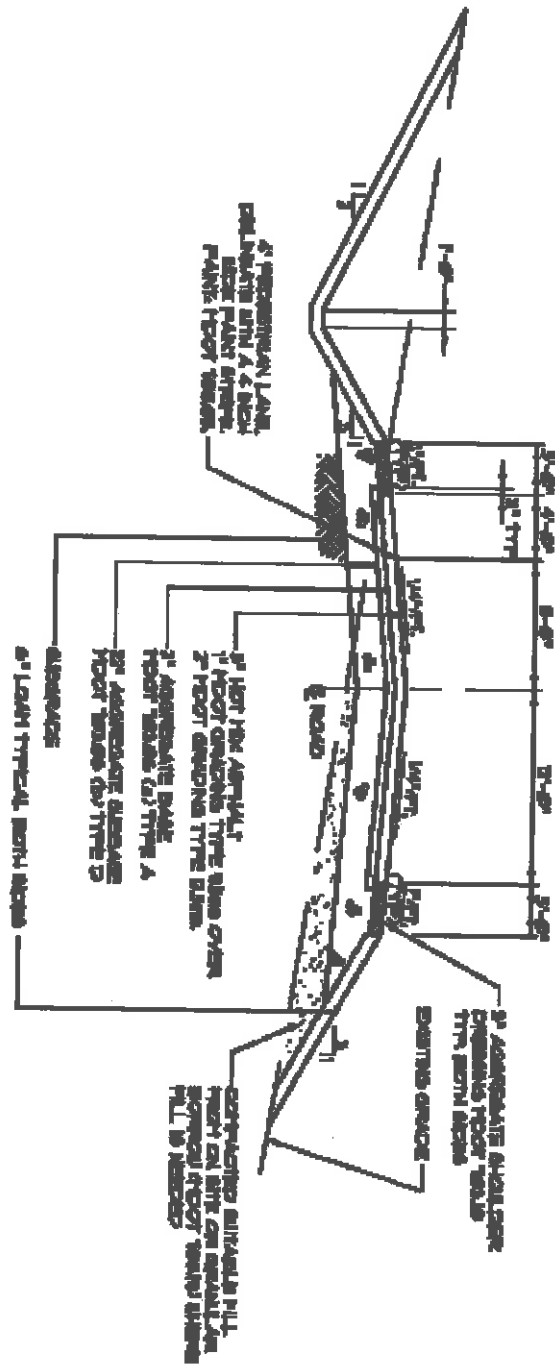
## **ARTICLE 13 - APPEALS**

- 13.1** An appeal from a decision of the Planning Board may be taken to a Zoning Board of Appeals. Refer to the Lyman Zoning Ordinance, Article 9.7, Appeals for details.

## **ARTICLE 14 - SEPARABILITY AND EFFECTIVE DATE**

1. These standards shall take effect immediately on adoption of the same by the Planning Board or legislative body.
2. The invalidity of any provision of these standards shall not invalidate any other part.

## Exhibit A – Typical Road Cross Section



### NOTES

1. CLEAR AND OPEN AREAS AROUND THE ROAD AND ROAD INFRASTRUCTURE PERFORM ALL VENTILATION TYPED, SHUTTER, RECTOR, TYPICAL, CRACKS, PAVEMENT, AND AROUND TYPICAL AREAS.
2. IN AREAS WHERE FILL IS REQUIRED TO BRING THE SUBGRADE TO THE REQUIRED ELEVATION, PLACE SUITABLE FILL FROM ON SITE OR GRAVEL OR OTHER FILL FROM TYPICAL AREAS, CORRECT AND MAINTAIN SUBGRADE TO A TOLERANCE OF 1 INCH ABOVE OR BELOW THE REQUIRED GRADE BEFORE PLACING ASSOCIATED SUBGRADE.
3. PLACE ASSOCIATED SUBGRADE IN TWO LAYERS WITH LAYERS DEPTH NOT EXCEEDING 8 INCHES LONGER THAN REQUIRED.
4. CORRECT EACH LAYER OF ASSOCIATED SUBGRADE AND ASSOCIATED BASE TO THE (TYPICAL) DEPTH REQUIRED BY THE TYPICAL AREAS, CORRECT AND MAINTAIN SUBGRADE TO A TOLERANCE OF 1 INCH ABOVE OR BELOW THE REQUIRED GRADE BEFORE PLACING ASSOCIATED SUBGRADE.
5. ROAD INFRASTRUCTURE SIZE SHALL NOT BE GREATER THAN 1 HORIZONTAL TO 1 VERTICAL EXCEPT IN BENTLANDS AND OTHER AREAS APPROVED BY THE PLANNING BOARD.
6. DO NOT PLACE ASSOCIATED SUBGRADE, BASE OR PAVEMENT OVER FROZEN GROUND.
7. SHAPE, CORRECT AND MAINTAIN ASSOCIATED SUBGRADE AND BASE COURSE SURFACES TO A TOLERANCE OF 1/2 INCH ABOVE OR BELOW THE REQUIRED GRADE BEFORE PLACING PAVEMENT.
8. EXISTING GRADE (TYPICAL) SHALL BE 10 INCHES BELOW SUBGRADE ELEVATION AT THE ROAD CENTERLINE.

## TYPICAL ROAD SECTION

NOT TO SCALE



