

NEWRY PLANNING BOARD

Guidance Memorandum

Finding an Application Complete for Review

Standalone Guidance Memorandum — Application Completeness Determinations

Prepared for Planning Board members

September 3, 2026

This memorandum is administrative guidance prepared for the Board's internal use in determining whether a subdivision application is complete for review under UDRO §3.B and §10.B. It is not a legal opinion and does not substitute for case-specific advice from municipal counsel. It is not one of the 21 UDRO Section 5 Criteria of Approval guidance documents; it addresses the earlier, purely administrative gatekeeping step that precedes substantive criteria review.

Table of Contents

1. Purpose and Scope.....2

2. Executive Summary.....2

3. Legal Framework: State Law and the UDRO.....3

4. What "Complete" Means -- And Does Not Mean.....4

5. The Newry Completeness Procedure, Step by Step.....4

6. Board Policy: When the Completeness Clock Starts.....6

7. Completeness in Practice: What Maine Case Law Adds.....7

8. Board-Bandwidth Practices: Options Beyond the Current Ordinance.....8

9. Documenting the Completeness Determination.....8

10. Appendix: Key Citations.....9

1. Purpose and Scope

This memorandum is a guide to assist the Board through determining whether a subdivision application is complete for review. Its content has been checked line-by-line against three sources that control for Newry: **Newry's own UDRO text** (§3.B, §9, §10.B), **the current Maine subdivision statute** (30-A M.R.S. §4403), and **Maine case law** on completeness determinations, drawn from the the Maine Municipal Association's 2017 legal-perspective manual for local planning boards.

Scope. This memorandum covers only completeness determinations -- the threshold, administrative step that starts the statutory review clock. It does not address the substantive Criteria of Approval review that follows completeness (that is the subject of the separate UDRO §5.A-§5.U guidance series), and it does not address completeness-versus-criteria deliberations, the scope of review for applications to amend an already-approved subdivision, or how a completeness determination applies to a specific fact pattern -- topics that may warrant their own guidance memoranda.

2. Executive Summary

Board members should take five points from this memorandum:

- **Completeness is a gatekeeping determination, not a merits review.** Finding an application "complete" means the Board has enough to begin its work -- it is not an approval, not a finding on any Criterion of Approval, and does not excuse the applicant from proving compliance later. See Section 4.
- **The governing state statute is 30-A M.R.S. §4403(3), not §4404.** §4404 is Maine's Criteria of Approval statute -- the source of UDRO §5's 21 criteria -- not the completeness provision. The two sit close together in the statute and are easy to conflate; the correct citation for completeness is §4403(3). See Section 3.
- **Newry's UDRO already has a complete, workable completeness procedure.** UDRO §3.B defines "complete application"; §10.B.2 through §10.B.10 set out filing deadlines, receipts, and a 30-day notice-of-completeness requirement that tracks the state statute closely. See Sections 3 and 5.
- **The Board has a stated policy on when the clock starts, which this memorandum documents rather than second-guesses.** The 30-day completeness clock begins at the first Board meeting at which the Board makes its threshold administrative determinations -- jurisdiction over the application, the applicant's standing, and the agency of any representative appearing for the applicant -- not the applicant's submission date or the date the Code Enforcement Officer forwards the materials. That

policy governs unless and until the Town's attorney advises otherwise. See Section 6.

- **Maine case law confirms two practical points worth keeping in mind.** An initial completeness finding is not necessarily locked in -- the Board may determine mid-review that more information is genuinely needed -- and a completeness determination standing alone is ordinarily not independently appealable. See Section 7.

3. Legal Framework: State Law and the UDRO

3.1. State law: 30-A M.R.S. §4403(3), not §4404

Completeness determinations are sometimes miscited to 30-A M.R.S.A. §4404, which is worth correcting before it works its way into a Board record. Section 4404 is titled *Municipal review of subdivisions* and is the source of the 21 substantive Criteria of Approval that UDRO §5 implements (already the subject of this Board's separate 20-document guidance series, with §5.U to follow). It has nothing to do with the completeness gate. The provision that actually governs completeness is **30-A M.R.S. §4403(3)**, part of the statute's procedural section on submission and review of subdivision plans. This is a common mix-up -- the two provisions sit close together and are easy to conflate -- but the distinction matters for accurate citation in Board findings.

§4403(3), quoted in relevant part:

- (A) When an application is received, the municipal reviewing authority shall give a dated receipt to the applicant and shall notify by mail all abutting property owners...*
- (B) Within 30 days after receiving an application, the municipal reviewing authority shall notify the applicant in writing either that the application is complete or, if the application is incomplete, the specific additional material needed to complete the application.*
- (C) After the municipal reviewing authority has determined that a complete application has been filed, it shall notify the applicant and begin its full evaluation of the proposed subdivision.*

Notably, the statute is silent on what happens if the municipality misses its own 30-day window, and it does not describe a specific cure procedure for an incomplete application beyond notifying the applicant what is missing. Maine's appellate and Superior Court decisions fill part of that gap; see Section 7.

3.2. Newry's ordinance: §3.B, §9, and §10.B

UDRO §3.B, in the Definitions section, defines "**COMPLETE APPLICATION**":

- An application shall be considered complete upon submission of the required fee and all information required by this Ordinance, or by a vote by the Board to waive the submission of required information. The Board shall issue a receipt to the applicant upon its determination that an application is complete.*

UDRO §9 makes a pre-application conference **optional**: either the applicant or the Board "may" request one, but nothing in the Ordinance conditions completeness on holding one.

UDRO §10.B sets out the operative procedure, item by item -- the full text most relevant to completeness is quoted and organized as a step-by-step table in Section 5 below.

4. What "Complete" Means -- And Does Not Mean

4.1. What it is

A finding that an application is complete for review is a threshold, administrative determination: the applicant has submitted the fee and all information the Ordinance requires (or the Board has voted to waive specific required items), so the Board has enough in hand to begin its substantive work. It starts the statutory review clock -- the 30/60-day decision deadlines in UDRO §10.B.12 and 30-A M.R.S. §4403(5) run from the completeness determination, not from the applicant's first contact with the Town.

4.2. What it is not

- **It is not an approval.** Nothing about a completeness vote reflects any judgment on whether the proposed subdivision satisfies UDRO §5's 21 Criteria of Approval.
- **It is not a finding on any Criterion of Approval.** Completeness and criteria review are legally and procedurally distinct steps, even though the same meeting may sometimes address both.
- **It does not shift or waive the burden of proof.** Under 30-A M.R.S. §4403(6), "the burden of proof is upon the person proposing the subdivision" throughout the entire process -- a completeness finding does not relieve the applicant of that burden on any individual criterion later in the review.
- **It is a preliminary determination, confirmed by Maine case law.** Breakwater at Spring Point Condominium Assoc. v. Doucette, AP-97-28 (Me. Super. Ct., Cum. Cty., Apr. 8, 1998), treats completeness (including whether required fees were paid) as a preliminary, non-substantive gate -- not a review of whether the applicant has actually satisfied every ordinance requirement on the merits. See Section 7.

5. The Newry Completeness Procedure, Step by Step

The table below lays out Newry's actual, ordinance-based completeness sequence. Ordinance text directly supports a practice of voting on individual waiver requests before acting on the application package as a whole -- see §3.B's own "or by a vote by the Board to waive the submission of required information" clause. The Ordinance does not, however, prescribe a

formal "check-off audit" as a separate, named procedural step -- Board members are free to use a checklist as a practical tool, but nothing in §10.B requires one by that name, and no completeness determination should be treated as procedurally defective merely for not producing one.

Step	UDRO Citation	What happens
1	§9 / §10.B.1	Pre-application conference -- optional. Either the applicant or the Board may request one; the Ordinance does not require it and does not condition completeness on it.
2	§10.B.2	"Application: The applicant shall submit an application for approval two weeks prior to the scheduled meeting of the Planning Board." This filing deadline builds in a two-week buffer before the meeting at which the Board's threshold administrative determinations (jurisdiction, standing, agency) are typically made -- see Section 6.
3	§10.B.3	All submitted documents must show their date of submission.
4	§10.B.4	"Receipt: When the application is received, a dated receipt shall be provided to the applicant." This is the administrative intake receipt -- distinct from the Board's own clock-start date under its stated policy; see Section 6.
5	§10.B.6	Application fee (set by the Select Board, non-refundable) is collected; the Board may also require an escrow fee, held in a non-interest-bearing account, subject to top-up if substantially drawn down.
6	§10.B.9	"Notification 30 days from application: Within thirty (30) days of receiving an application and fee, the Applicant will be notified in writing that either the application is complete or, if it is incomplete, the specific material needed to complete it."
7	§3.B	Completeness standard: the application is complete once the fee and all required information are in hand, or the Board votes to waive submission of specific required items it decides are unnecessary for this application. This is the standard the Board applies in confirming completeness and issuing the second receipt at Step 8.
8	§10.B.10	Upon determining a complete application has been submitted, the Board issues a second, dated receipt and decides whether to hold a public hearing (mandatory for Major Subdivisions under §10.B.11).

6. Board Policy: When the Completeness Clock Starts

This section states the Board's own current policy. It governs unless and until the Town's attorney advises the Board otherwise, at which point this memorandum should be revised to match.

The Board's policy is that the 30-day completeness clock begins running at the **first Board meeting at which the Board makes its threshold administrative determinations** on the application -- specifically, the Board's jurisdiction over the application, the applicant's standing, and, where a representative appears on the applicant's behalf, that representative's agency to act for the applicant. It does not begin at the applicant's submission date, and it does not begin at the date the Code Enforcement Officer forwards the materials to the Board. If those threshold determinations take more than one meeting to resolve, the clock begins at whichever meeting actually resolves them, not necessarily the application's first appearance on an agenda.

Why this matters as a distinct step. Confirming jurisdiction, standing, and agency before treating an application as administratively received is a sensible practice: it ensures the Board is not running its own clock, or the applicant's, against a submission that turns out to have been filed by the wrong party, for the wrong type of review, or by a representative without authority to act. Under *Jackson v. Town of Kennebunk* (Section 7 below), the Board has inherent authority to structure its own procedure this way.

A textual note for awareness, not for action. UDRO §10.B.4 ties the dated receipt to when the application "*is received*," §10.B.9 starts the 30-day completeness-notice clock "*within thirty (30) days of receiving an application and fee*," and the parallel state provision, 30-A M.R.S. §4403(3)(A), uses the same "when an application is received" framing -- none of the three expressly ties receipt to a Board meeting date, and §10.B.2's two-week pre-meeting filing deadline reads most naturally as calibrated to an already-running, intake-based clock. This is not a defect in the Board's policy; it is simply a gap between the Ordinance's literal wording and the Board's chosen administrative practice, worth having on record in case it is ever raised by an applicant or reviewed by counsel.

Practical stakes and the documentation response. *Shure v. Town of Rockport*, discussed in Section 7, confirms that a missed statutory deadline -- not an intentionally later clock-start date -- is what exposes a municipality to a failure-to-act appeal. The Board's practice of fixing the clock to a specific, identifiable meeting (rather than an ambiguous submission date) is itself a reasonable way to keep that risk low, provided the record clearly documents both the application's actual filing/intake date and the date the Board resolved jurisdiction, standing, and agency. Section 9 below builds that documentation practice into the sample motion language.

7. Completeness in Practice: What Maine Case Law Adds

The following cases, drawn from the Maine Municipal Association's 2017 legal-perspective manual for local planning boards, speak directly to completeness determinations.

- **Breakwater at Spring Point Condominium Assoc. v. Doucette, AP-97-28 (Me. Super. Ct., Cum. Cty., Apr. 8, 1998).** Completeness -- including whether required fees were paid -- is a preliminary, non-substantive determination, not a review of whether the applicant has satisfied every ordinance requirement on the merits. Supports treating the completeness vote as genuinely threshold in nature, consistent with Section 4 above.
- **Philric Associates v. City of South Portland, 595 A.2d 1061 (Me. 1991).** A board found an application complete and began substantive review; roughly a year later, staff advised the applicant the application was actually incomplete after all, and specified what was still needed. The developer's appeal was held premature. Two points follow: an initial "complete" finding is not necessarily final or locked-in -- the Board can determine mid-review that more information is genuinely required -- and a completeness or incompleteness determination standing alone is ordinarily not an independently appealable final decision; an aggrieved party generally must wait for the Board's ultimate decision on the application.
- **Shure v. Town of Rockport, AP-98-005 (Me. Super. Ct., Knox Cty., May 11, 1999).** Where a municipal reviewing authority fails to act on an application within a required deadline, the Zoning Board of Appeals has jurisdiction to hear an "appeal of failure to act," grounded in 30-A M.R.S. §4353(1). This is the relevant answer to "what happens if Newry misses its own 30-day completeness-notice deadline": Maine's statute does not provide for automatic or constructive completeness -- silence does not favor the applicant automatically -- but a missed deadline does expose the Town to a failure-to-act appeal. The Board's stated clock-start policy (Section 6) reduces this risk by fixing the clock to a specific, well-documented meeting rather than an ambiguous date, provided the record shows why that meeting -- and not an earlier one -- was the operative one.
- **Lane Construction Corp. v. Town of Washington, 2008 ME 45, 942 A.2d 1202.** A board may not impose additional fees to cover its review costs after an application is filed, absent clear ordinance authority to the contrary. Newry's own escrow provisions (UDRO §10.B.6, §4.E) are pre-adopted ordinance authority for exactly this kind of fee, so they appear consistent with this holding rather than in tension with it -- worth keeping in mind if a future applicant challenges an escrow request.
- **Jackson v. Town of Kennebunk, 530 A.2d 717 (Me. 1987).** Confirms that planning boards have inherent authority to adopt their own rules of procedure. Relevant to Section 8 below: a Board practice that goes beyond the Ordinance's minimum text (for example, a

standard intake checklist) is generally within the Board's own procedural authority, so long as it does not conflict with the Ordinance or state law.

8. Board-Bandwidth Practices: Options Beyond the Current Ordinance

Keeping an under-documented application from consuming Board time as though it were a design-review service calls for a few practical safeguards. Some of these already exist in Newry's Ordinance; others do not, and would need either a Board-adopted procedural rule (within the Jackson inherent-authority framework above) or a future ordinance amendment to formalize. This memorandum flags the distinction so the Board does not assume something is already required when it is not.

- **Pre-application conference.** Already exists (UDRO §9, §10.B.1) but is optional, not mandatory. Making it mandatory for any category of application would require an ordinance amendment.
- **Two-week filing deadline before a meeting.** Already exists (UDRO §10.B.2) and requires no further Board action.
- **Formal "reject incomplete submissions at intake" rule.** Not currently in the Ordinance text. UDRO §3.B and §10.B.9 contemplate the Board notifying the applicant what is missing within 30 days, not summarily refusing intake. A Board practice of declining to place a visibly incomplete application on an agenda may be a reasonable exercise of the Board's own procedural authority under Jackson, but it should not be confused with an ordinance requirement, and should be applied consistently to avoid an appearance of arbitrary treatment between applicants.
- **Standard intake checklist.** Not a named ordinance requirement, but a reasonable internal tool consistent with §3.B's completeness standard and within the Board's inherent procedural authority. Adopting one Board-wide (rather than leaving it to individual member practice) would promote consistency and make the Section 9 documentation task easier.

9. Documenting the Completeness Determination

Every completeness vote should be reflected in the minutes with enough detail to satisfy the state's minimum meeting-record content requirement, **1 M.R.S.A. §403(2)**: date, time, and place of the meeting; the members present and absent; and the motion and vote (including how each member voted, if taken by roll call). For completeness votes specifically, the minutes should also record the application's actual submission date, the date any receipt issued, and -- if the application is found incomplete -- the specific items identified as missing, since those

items define what "complete" will mean the next time the question comes back to the Board (see Philric, Section 7).

Record two dates, not one. Consistent with the Board's clock-start policy in Section 6, the minutes should distinguish the application's actual filing/intake date (when the Code Enforcement Officer received the materials) from the date the Board resolved jurisdiction, standing, and agency and started the 30-day clock. Recording both -- rather than only the date that starts the clock -- keeps the record clear about why the Board treated a later date as operative, which matters if the point is ever raised on appeal.

Situation	Sample motion language
Threshold administrative determination (clock-start)	<i>"I move that the Planning Board find that it has jurisdiction over the application for [project name], that [applicant name] has standing to apply, and that [representative name, if any] has been shown to hold agency to act on the applicant's behalf. The Board's 30-day completeness clock under §10.B.9 begins running today, [date], consistent with Board policy; the application itself was filed/received by the Code Enforcement Officer on [intake date]."</i>
Complete	<i>"I move that the Planning Board find the application for [project name], received on [date], complete for review under UDRO §3.B, and direct that a dated receipt issue to the applicant."</i>
Incomplete	<i>"I move that the Planning Board find the application for [project name], received on [date], incomplete for review under UDRO §3.B, and direct that the applicant be notified in writing, within thirty (30) days of [receipt date] per UDRO §10.B.9, of the following specific items needed to complete the application: [list]."</i>
Waiver of a specific item	<i>"I move that the Planning Board waive submission of [specific required item] under UDRO §3.B, on the grounds that [reason -- e.g., not applicable to this project, information already in the Board's possession]." Vote each waiver individually before voting on overall completeness.</i>

10. Appendix: Key Citations

Citations to specific UDRO section and subsection numbers reflect the Town's Unified Development Review Ordinance effective May 12, 2026. Board members should confirm current section numbers against the version of the UDRO in effect at the time of review, and confirm current statutory text against the Maine Legislature's published statutes, since both can be amended.

Citation	Subject
UDRO §3.B	"COMPLETE APPLICATION" -- the Ordinance's own definition of a complete application, including the fee/information standard and the waiver-by-vote mechanism.
UDRO §9	Pre-Application Conference (Optional) -- either party may request one; not a precondition of completeness.
UDRO §10.B.1-B.10	The Board's operative completeness procedure: pre-application conference, filing deadline, dated documents, receipt, fees/escrow, 30-day completeness notice, and the second receipt/hearing decision on a finding of completeness.
UDRO §10.B.13	Requires written findings of fact and conclusions within 30 days of the Board's decision vote, per the standards in 30-A M.R.S. §4404 -- the UDRO's own correct use of §4404, for the criteria-of-approval merits, not for completeness.
30-A M.R.S. §4403(3)	The actual state-law completeness provision: dated receipt and abutter notice on receipt (A); 30-day written notice of completeness or specific deficiencies (B); full evaluation begins once complete (C); plan-sealing requirements (D).
30-A M.R.S. §4403(5)	30-day post-hearing or 60-day post-completion decision deadline.
30-A M.R.S. §4403(6)	"In all instances, the burden of proof is upon the person proposing the subdivision" -- unaffected by a completeness finding.
30-A M.R.S. §4353(1)	Basis for a Board of Appeals "appeal of failure to act" where a reviewing authority misses a required deadline; see <i>Shure v. Town of Rockport</i> .
30-A M.R.S. §4404	Maine's Criteria of Approval statute -- the source of UDRO §5's 21 criteria. Not the completeness provision; sometimes miscited for completeness, corrected in Section 3 above.
1 M.R.S.A. §403(2)	Minimum required content of a public body's meeting record: date, time, place; members present/absent; motions and votes.
Breakwater at Spring Point Condominium Assoc. v. Doucette, AP-97-28 (Me. Super. Ct., Cum. Cty., Apr. 8, 1998)	Completeness is a preliminary, non-substantive determination.
Philric Associates v. City of South Portland, 595 A.2d 1061 (Me. 1991)	An initial completeness finding is not necessarily final; a completeness determination alone is ordinarily not independently appealable.

Citation	Subject
Shure v. Town of Rockport, AP-98-005 (Me. Super. Ct., Knox Cty., May 11, 1999)	Missed deadlines expose the municipality to a failure-to-act appeal under §4353(1).
Lane Construction Corp. v. Town of Washington, 2008 ME 45, 942 A.2d 1202	No post-filing fee increases absent clear ordinance authority; Newry's escrow provisions are such authority.
Jackson v. Town of Kennebunk, 530 A.2d 717 (Me. 1987)	Planning boards have inherent authority to adopt their own procedural rules.