

TOWN OF PHIPPSBURG, MAINE

SUBDIVISION ORDINANCE

May 4, 2015



Amended: June 11th, 2025

**SUBDIVISION ORDINANCE
TOWN OF PHIPPSBURG,
MAINE**

Adopted May 4, 2015

**This Ordinance repeals and replaces in its entirety the
Ordinance entitled “Subdivision Ordinance Town of
Phippsburg June 21, 1990”**

Contents	1
Abbreviations	4
<u>Section 1</u>	
Purpose:	5
A. Pollution	5
B. Sufficient Water	5
C. Common Water Supply	5
D. Erosion	5
E. Traffic	5
F. Sewerage Disposal	5
G. Town Solid Waste	5
H. Aesthetic, Cultural and Natural Values	5
I. Conformity with Local Ordinances	6
J. Financial and Technical Capacity	6
K. Surface Waters; Outstanding River Segments	6
L. Ground Water	6
M. Flood Areas	6
N. Freshwater Wetlands	6
<u>Section 2</u>	
Authority and Administration:	7
A. Authority	7
B. Administration	7
C. Effective Date	7
D. Availability	7
E. Severability	7
F. Amendments	7
G. Withdrawl of Application	8
<u>Section 3</u>	
Administrative Procedure:	9
A. Purpose	9
<u>Section 4</u>	
Preapplication:	10

A. Procedure	10
<u>Section 5</u>	
Preliminary Plan Application:	11
A. Submissions	11
B. Administrative Procedure to be followed after receiving an application for consideration of the Preliminary Plan for the proposed subdivision	16
<u>Section 6</u>	
Final Plan Application:	18
A. Submissions	18
B. Procedure	20
C. Final Approval and Filing	21
<u>Section 7</u>	
General Standards:	23
A. Conformity with Comprehensive Plan	23
B. Retention of Common Land and Natural or Historic Features	23
C. Land not Suitable for Development	23
D. Skyline Building Height	23
E. Lots	24
F. Required Improvements	24
G. Dedication and Maintenance of Common Land and Services	26
H. Construction in Flood Prone Areas	27
<u>Section 8</u>	
Road and Storm Drainage Design and Construction:	28
A. General Requirements	28
B. Road Standards	29
<u>Section 9</u>	
Cluster Developments:	32
A. Purpose	32
B. Basic Standard for Cluster Developments	32
<u>Section 10</u>	
Inspections and Enforcement:	34
A. Inspection and Required Improvements	34
B. Violations and Enforcement	34
<u>Section 11</u>	
Performance Guarantee:	36
A. Types of Guarantees	36
B. Contents of Guarantee	36
C. Escrow Account	36
D. Performance Bond	36
E. Letter of Credit	37

F. Phasing of Development	37
G. Release of Guarantee	37
H. Default	37
I. Private Roads	37
J. Improvements Guaranteed	37
<u>Section 12</u> Waivers	38
<u>Section 13</u> Appeals	39
<u>Section 14</u> Definitions	40
<u>Appendix A (State Subdivision Law)</u>	45
4401. Definitions	45
4402. Exceptions	51
4403. Municipal Review and Regulation	52
4404. Review Criteria	55
4405. Access to Direct Sunlight	59
4406. Enforcement; Prohibited Activities	60
4407. Revisions to Existing Plats or Plan	63
4408. Recording Upon Approval	64

ABBREVIATIONS

Board	The Planning Board
CEO	Code Enforcement Officer
DEP	Department of Environmental Protection DMR
	Department of Marine Resources
IF&W	Inland Fish and Wildlife
IBC	International Building Code
IRC	International Residential Code
LPI	Licensed Plumbing Inspector
MRSA	Maine Revised Statutes Annotated
NFPA	National Fire Protection Association
Town	Town of Phippsburg

Applicant, Developer and Subdivider shall be considered the same and are interchangeable

Section 1. Purpose

The purpose of these regulations is to assure the comfort, convenience, safety, health and welfare of the people of the Town of Phippsburg, to protect the environment and to promote the development of an economically sound and stable community. To this end, in approving subdivisions within the Town of Phippsburg, Maine, the Planning Board (Board) shall consider the following criteria and other pertinent information, and before granting approval shall make findings of fact that the provisions of these regulations have been met and that the proposed subdivision will meet the following criteria of Title 30-A, M.R.S.A. Section 4404:

A. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, the Board shall at least consider:

1. The elevation of the land above sea level and its relation to the flood plains;
2. The nature of soils and sub-soils and their ability to adequately support waste disposal;
3. The slope of the land and its effect on effluents;
4. The availability of streams for disposal of effluents;
5. The applicable state and local health and water resource rules and regulations.

B. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.

C. Common water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.

D. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results.

E. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed.

F. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal.

G. Solid waste. The proposed subdivision will not cause an unreasonable burden on the Town's ability to dispose of solid waste, if Town facilities are to be utilized.

H. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the natural beauty of the area, historic sites and significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife (IF&W).

I. Conformity with local ordinances: The proposed subdivision conforms to a duly adopted subdivision ordinance and any other pertinent ordinance. In making this determination, the Board shall interpret these ordinances;

J. Financial and technical capacity: The subdivider has adequate financial and technical capacity to meet the standards of this section.

K. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
(Phippsburg has no outstanding river segments per Title 12 section 402.)

L. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water.

M. Flood areas. Based on the Federal Emergency Management Agency's (FEMA) Flood Boundary and Floodway Maps and Flood Insurance Rate maps, and information presented by the Applicant, the Board shall determine whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plat/plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation.

N. Freshwater wetlands.

1. All potential freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands.
2. River, stream, or brook. Any river, stream, or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, "river, stream or brook" has the same meaning as in Title 38, section 480-B, subsection 9.
3. Storm water. The proposed subdivision will provide for adequate storm water management in accordance with current State of Maine Storm Water Management Law.

Section 2. Authority and Administration

A. Authority.

1. These standards have been prepared in accordance with the provisions of Title 30-A, M.R.S.A. Section 3001 and Section 4401, et seq.
2. These standards shall be known as and may be cited as "Subdivision Ordinance of the Town of Phippsburg, Maine."

B. Administration.

1. The Planning Board of the Town of Phippsburg shall administer these standards.

The provisions of these standards shall pertain to all land proposed for subdivision, as defined in Title 30-A, M.R.S.A. Section 4401, et seq. within the boundaries of the Town of Phippsburg.

C. Effective Date

1. The effective date of this Ordinance is the date on which the Ordinance was adopted by the Town, May 4th, 2015.

D. Availability

1. A certified copy of this Ordinance shall be filed with the Town Clerk and shall be accessible to any member of the public. Hard copies shall be made available to the public at a reasonable cost, or may be downloaded at www.phippsburg.com. Notice of availability of this Ordinance shall be posted.

E. Severability

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

F. Amendments

1. This Ordinance can be amended only by a majority vote at any Phippsburg Town Meeting. Such amendments shall not be effective until the date of the vote.
2. Amendments can only be initiated by a majority vote of the Planning Board, or by a majority vote of the Board of Selectmen, or by written petition signed by a number of voters equal to at least ten (10) percent of the number of votes cast in the Town at the last gubernatorial election.

G. Withdrawal of Application

1. An application to the Planning Board may be withdrawn at any time throughout the application process. A withdrawal statement must be submitted to the Board in writing, signed by the applicant or a certified designee.

2. Fees paid shall not be refunded.

Section 3. Administrative Procedure

A. Purpose. To establish an orderly, equitable and expeditious procedure for reviewing subdivisions:

- 1.** In order to avoid unnecessary delays, an applicant shall request to be placed on the Board's agenda by contacting the Chair or the Board's Administrative Assistant at least fourteen (14) days in advance of a regularly scheduled meeting.
- 2.** Applicants who attend a meeting but who are not on the Board's agenda may be heard only after all agenda items have been completed, and then only if a majority of the Board members present so vote.

Section 4. Preapplication

A. Procedure.

1. Applicant presentation and submission of a Sketch Plan.

a. The Sketch Plan shall show, in simple sketch form, the proposed layout of roads, lots, and other features in relation to existing conditions. The Sketch Plan, which may be a free-hand penciled sketch, should be supplemented with general information to describe or outline the existing conditions of the site and the proposed development. The Sketch Plan shall be superimposed on or accompanied by a copy of the Assessor's Map(s) on which the land is located. The Sketch Plan shall be accompanied by a copy of a portion of the U.S.G.S. topographic map of the area showing the outline of the proposed subdivision.

b. Fees. (*Payable to the Town of Phippsburg Planning Board Account*)

i. Preapplication review \$100.00

ii. Onsite inspection \$50.00 per lot plus advertising fee as determined by the Planning Board

2. Question and answer period.

a. The Board may make specific suggestions to be incorporated into subsequent submissions by the Applicant.

3. On-site inspection.

a. Scheduling: Within thirty (30) days after the Sketch Plan review, the Board shall hold an onsite inspection of the property. The thirty (30) days may be adjusted to account for snow cover and other weather conditions.

b. Determinations: During the onsite inspection, the Board shall determine and inform the Applicant of the required contour interval, normally twenty (20) foot, and any other suggestions deemed necessary to be included on the Preliminary Plan.

c. Flagging: The property shall be flagged by the Applicant/representative to match Sketch Plan.

4. Rights not vested: The submittal or review of the Sketch Plan shall not be considered the initiation of the review process for the purposes of bringing the plan under the protection of Title 1, M.R.S.A. Section 302.

5. Within six (6) months after the onsite inspection, the Applicant shall submit an application for consideration of the Preliminary Plan for the proposed subdivision. Failure to do so shall require resubmission of a Sketch Plan to the Board for review.

6. Following the Sketch Plan review the Board shall establish a file for the proposed subdivision. All correspondence and submissions regarding the Sketch Plan shall be maintained in this file.

Section 5. Preliminary Plan Application

A. Submissions.

1. The Applicant shall submit an application for consideration of the Preliminary Plan for the proposed subdivision **within six (6) months** of the onsite Sketch Plan inspection.
2. The Preliminary Plan shall conform to the layout shown on the Sketch Plan plus any recommendations made by the Board.
3. The Applicant shall provide twelve (12) packets: a packet shall be mailed to each of the seven (7) Board members fourteen (14) days prior to the scheduled meeting and five packets shall be presented at the scheduled meeting. All Mapping shall include full size 24x36 inch maps plus reduced 11x17inch copies. These packets shall contain the following submissions:
 - a. Verification of right, title, or interest in the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest;
 - b. A Location Map adequate to show the relationship of the proposed subdivision to the abutting properties, and to allow the Board to locate the subdivision within the Town, and shall show:
 - i. Existing subdivisions within one thousand (1000) feet of the proposed subdivision;
 - ii. Locations and names of existing roads;
 - iii. Boundaries and designations of Shoreland Zoning districts;
 - iv. An outline of the proposed subdivision and any remaining portion of the owner's property if the Preliminary Plan submitted covers only a portion of the owner's entire contiguous holding.
4. Preliminary Plan. Maps or drawings may be printed or reproduced on paper, with all dimensions shown in feet or decimals of a foot. The Preliminary Plan shall be drawn to a scale of not more than one hundred (100) feet to the inch. The Board may allow plans for subdivisions containing more than one hundred (100) acres to be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary detail can easily be read.

The following information shall be shown on the Preliminary Plan or accompany the application for Preliminary Plan approval, where applicable:

- a.** Name of the subdivision, name of the Town and a copy of the Tax Assessor's Map and Lot number(s);
- b.** A standard boundary survey of the parcel, giving complete descriptive data by bearing and distance, made and certified by a licensed land surveyor. The corners of the parcel shall be located on the ground and marked by permanent monuments as found or set. The Plan shall indicate the type of monument found or set. The entire parcel shall be shown, including all contiguous land in common ownership within the last five years, as required by Title 30-A, M.R.S.A. Section 4401;
- c.** A title block showing the graphic map scale, name(s) and address(s) of the owner(s) of record; subdivider; individual or company who prepared the Plan; a magnetic north indicator; a revision block with the date the Plan was prepared and any subsequent revision dates;
- d.** Contour lines, unless otherwise specified by the Board, showing elevations in relation to Mean Sea Level at twenty (20) foot intervals;
- e.** The location and distances of Shoreland Zoning boundaries affecting the subdivision;
- f.** If any portion of the subdivision is in a flood prone area as depicted on the Town Flood Insurance Rate Map, the boundaries of any flood hazard area and the 100-year flood elevation shall be delineated on the Plan;
- g.** The location, names and widths of existing and proposed roads, easements, building lines, Town Landings and other open spaces on or adjacent to the subdivision;
Note: All proposed road names require approval from the Town E-911 Addressing Officer
- h.** The number of acres within the proposed subdivision, location of existing property lines, existing buildings, permanent and intermittent watercourses, vegetative cover type, and other existing physical features, such as Great Ponds, freshwater wetlands, swamps, marshes, bogs and unusually large specimen trees;
- i.** The width and location of public roads or public improvements, if any, within and abutting the subdivision;
- j.** The proposed lot lines with approximate dimensions and lot size in acres to the nearest tenth;

- k.** All parcels of land proposed to be dedicated to public use and the conditions of such dedication;
- l.** The names of owners of record of abutting property, including any property directly across any road from the subdivision;
- m.** The location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided;
- n.** The location of any common open space(s) to be preserved or improvements to be created, and a general description of proposed ownership and management;
- o.** A copy of the most recently recorded deed for the parcel. A copy of all covenants or deed restrictions, easements, rights-of-way, or other encumbrances currently affecting the property;
- p.** A copy of any additional covenants or deed restrictions intended to cover all or part of the lots in the subdivision;
- q.** Indication of existing or proposed type of sewage disposal to be used in the subdivision:
 - i.** When sewage disposal is to be accomplished by a subsurface sewage disposal system(s), test pit analyses prepared by a Licensed Site Evaluator shall be provided. A map showing the location of all test pits dug on the site shall be submitted;
 - ii.** When individual subsurface wastewater disposal systems are to be used, each test pit shall be numerically designated and shall be located in proper sequence on the subdivision plan and there shall be numeric agreement between the lots and the actual test pits themselves;
 - iii.** Whenever and wherever there is a question on the part of the Board as to the suitability of the soils on the proposed subdivision, it shall be the right of the Board to retain its own licensed soils evaluator for soil verification. Payment for this evaluation shall be at the expense of the Applicant.
- r.** Indication of the type of water supply system(s) to be used in the subdivision;

- s.** A soil erosion and sedimentation control plan prepared by the Maine Soil and Water Conservation Commission, if required by the Board;
- t.** A plan prepared by a Registered Professional Engineer for disposal of surface drainage waters in accordance with Best Management Practices, if required by the Board;
- u.** A copy of that portion of the County Soil Survey covering the subdivision. When the medium intensity soil survey shows soils which are generally unsuitable for uses proposed, the Board may require the submittal of a report by a Registered Soil Scientist indicating the suitability of soil conditions for those uses;
- v.** All proposed subdivisions, including those on islands, must provide for off-road parking and mail delivery sufficient for the number of lots within the subdivision;
- w.** Copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be managed and maintained. These may include homeowners association by-laws and condominium declarations;
- x.** Where applicable, obtain in writing the following State and Federal approvals:

 - i.** Maine Department of Environmental Protection, under the Site Location of Development Act;
 - ii.** Maine Department of Environmental Protection, under the Natural Resources Protection Act or Stormwater Law, or if a Maine Pollutant Discharge Elimination System wastewater discharge license is needed;
 - iii.** Maine Department of Human Services, if a public water system is to be provided;
 - iv.** Maine Department of Human Services, if an engineered subsurface waste water disposal system(s) is to be utilized;
 - v.** U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required;
 - vi.** Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit;

vii. If any areas are identified as listed on The National Register of Historic Places, the Applicant shall submit a copy of the Plan and a copy of any proposed mitigation measures to the Maine Historic Preservation Commission and their approval(s) prior to submitting the Final Plan application;

viii. Those areas identified as Essential Habitat by IF&W;

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

5. Fee Schedule

a. An application for a Preliminary Plan shall be accompanied by a non-refundable fee of three hundred dollars (300.00) plus one hundred dollars (100.00) per lot or dwelling unit.
(Check payable to the “Town of Phippsburg Planning Board Account”)

b. Additional fees may be required from the subdivider to cover Board costs including, but not limited to, public hearings, advertisement, mailing, and clerical.

6. Escrow Account

a. The Applicant shall pay a fee of two hundred (200) dollars per lot or dwelling unit in an Escrow Account designated for that subdivision, to be used by the Board for hiring independent consulting services as needed to assist in review of the application.

b. If the Escrow Account is drawn down by seventy-five (75) percent of the original deposit, the Board shall notify the Applicant that additional funds are required to bring the account back to the original amount.

c. Any balance in the Escrow Account remaining after the Board decision on the Final Plan application shall be returned to the Applicant.

B. Administrative Procedure to be followed after receiving an application for consideration of the Preliminary Plan for the proposed subdivision

The Board shall not review any Preliminary Plan application unless the Applicant or Applicant's representative attends the meeting. Should the Applicant or the Applicant's representative fail to attend, the Board shall reschedule review of the application at its next regular meeting.

1. When an application is received, the Board shall:
 - a. Issue a dated receipt to the applicant;
 - b. Notify by First Class mail all abutting property owners of the proposed subdivision, including a general description of the project;
 - c. Notify by First Class mail the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, including a general description of the project.
2. Within thirty (30) days of receipt of a Preliminary Plan application form and fee, the Board shall notify the Applicant in writing whether or not the application is complete, and what, if any, additional submissions are required for a complete application.
3. After the Board has determined that a complete application has been filed, it shall notify the Applicant and begin its full evaluation of the subdivision.
4. The Board shall notify the Selectmen , Road Commissioner, Fire Chief, Police Chief, Rescue Chief , Transfer Station Supervisor and Chairman of RSU 1 Board of Directors, of the proposed subdivision Preliminary Plan, the number of dwelling units proposed, the length of roadways, and the size and construction characteristics of any multi-family, commercial or industrial buildings. The Board shall request that these officials comment in writing upon the adequacy of their department's existing capital facilities to service the proposed subdivision.
5. The Board shall hold a public hearing on the Preliminary Plan application. The hearing shall be held within thirty (30) days of receipt of a complete application. Notice of the date, time, and place of the hearing shall be published in a newspaper of local circulation at least two times, the date of the first publication to be at least seven (7) days prior to the hearing, but not more than fourteen (14) days. In addition, the notice of the hearing shall be posted in at least three (3) prominent places within the Town at least seven (7) days prior to the hearing. A copy of the notice shall be sent by First Class mail to abutting landowners and to the Applicant, at least ten (10) days prior to the hearing.
6. Within thirty (30) days of the public hearing, or within another time limit mutually agreed to by the Board and the Applicant, the Board shall make findings of fact on the application, and approve, approve with conditions, or deny the Preliminary Plan application. The Board shall specify in writing its findings of facts and reasons for any conditions or denial.

7. When granting approval of a Preliminary Plan, the Board shall state the conditions of such approval, if any, with respect to:

- a. Any specific changes required to the Final Plan;
- b. The character and extent of the required improvements for which waivers may have been requested and which the Board finds may be waived without jeopardy to the public health, safety, and general welfare; and
- c. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the Final Plan.

8. Approval of a Preliminary Plan shall not constitute approval of the Final Plan or intent to approve the Final Plan, but rather it shall be deemed an expression of approval of the design of the Preliminary Plan as a guide to the preparation of the Final Plan. The Final Plan shall be submitted for approval of the Board upon fulfillment of the requirements of these regulations and the conditions of preliminary approval, if any. Prior to the approval of the Final Plan, the Board may require that additional information be submitted and changes be made as a result of further study of the proposed subdivision or as a result of new information received.

9. Within six (6) months of approval of the Preliminary Plan the Applicant must file an application for a Final Plan. See section 6.

Section 6. Final Plan Application

A. Submissions

The Final Plan shall conform to the layout shown on the Preliminary Plan, including changes required by the Board.

The Applicant shall provide twelve (12) Final Plan packets...Five (5) packets shall be presented at the scheduled meeting along with one non-folded all-original, signed, certified, and sealed Final Plan map to be recorded at the Sagadahoc Registry of Deeds.

These packets shall contain all of the approved Preliminary Plan documentation, plus the following submissions:

1. Maps and Drawings

- a. One copy of each map or drawing 24x36 inch, plus a reduced 11x17 inch version.
- b. Maps and drawings shall be drawn at a scale of not more than one hundred (100) feet to the inch. The Board may allow maps and drawings for subdivisions containing more than one hundred (100) acres to be drawn at a scale of not more than two hundred (200) feet to the inch provided all necessary detail can be easily read.
- c. The 24x36 inch maps shall have a margin of two inches outside of the border line on the left side for binding and a one inch margin outside the border along the remaining sides. Space shall be reserved for endorsement by the Board.
- d. The Final Plan map(s) shall include:
 - i. Any Board-required amendments to the Preliminary Plan;
 - ii. Deed reference, legend, title, and revision blocks;
 - iii. Name of the subdivision, name of the Town, and the Assessor's Map and Lot number(s);
 - iv. The boundary lines of the tract, giving complete descriptive data by bearing and distance including the total number of acres, made and certified by a licensed land surveyor. The corners of the tract shall be located on the ground and marked by permanent monuments;

- v. The location of the proposed property lines, existing buildings, watercourses, other essential existing physical features and name(s) of abutter(s);
- vi. Location of sewage disposal test pits;
- vii. Type of water supply system(s) to be used in the subdivision;
- viii. The date the Plan was prepared, magnetic and true north points, graphic map scale, names and addresses of the record owner, subdivider, individual or company who prepared the Plan and subsequent revisions with dates;
- ix. The location of any Shoreland Zoning boundaries affecting the subdivision;
- x. The location and size of existing and proposed drainage ditches, water pipes, culverts, streams, marshes and drainage ways on or adjacent to the property to be subdivided;
- xi. The location, names, and present widths of existing and proposed roads, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The maps and drawings shall contain sufficient data to allow the location, bearing and length of every road line, lot line, and boundary line to be readily determined and to be reproduced upon the ground. These lines shall be tied to reference points previously established. The location, bearing and length of road lines, lot lines and parcel boundary lines shall be certified by a professional land surveyor. The original reproducible Plan shall be embossed with the seal of the professional land surveyor and be signed by that individual;
- xii. The width and location of any proposed new public roads or public improvements or open space that are shown in the Comprehensive Plan, or Capital Improvements Program, if any, within the subdivision;
- xiii. If any portion of the subdivision is in a flood-prone area, the boundaries of any flood hazard areas and the 100-year flood elevation shall be delineated on the Plan for review in accordance with the Phippsburg Flood Plain Ordinance.

2. Written Documentation:

- a. Copies of agreements or other documents showing the manner in which open spaces to be retained by the developer or lot owners are to be managed and maintained. These may include homeowners' association by-laws and condominium declarations.
- b. The subdivider shall guarantee in writing to the buyer for one year from date of purchase available quantity/quality of potable water for each lot to the extent of refunding the price paid for the lot. This guarantee wording shall also be listed as a Note on the Final Plan.

B. Procedure:

1. Within six (6) months after approval of the Preliminary Plan, the Applicant shall file with the Board an application for approval of the Final Plan. The Applicant may request an extension of time in which to submit the Final Plan. If the application for the Final Plan is not submitted within six (6) months or within an extension granted, the Board may require resubmission of the Preliminary Plan. The Final Plan shall approximate the layout shown on the Preliminary Plan, plus any recommendations made by the Board.
 - a. If an Applicant cannot submit the Final Plan within six (6) months, due to delays caused by other regulatory bodies, or other reasons, the Applicant may request an extension. Such a request for an extension to the filing deadline shall be filed, in writing, with the Board prior to the expiration of the filing period. In considering the request for an extension, the Board shall make findings that the Applicant has made due progress in preparation of the Final Plan and in pursuing approval of the plans before other agencies, and that town ordinances or regulations which may impact the proposed development have not been amended.
2. All applications for Final Plan approval for a subdivision shall be accompanied by a non-refundable application fee of three hundred (300.00) dollars, payable by check to the "Town of Phippsburg Planning Board Account."
3. The Applicant shall also be subject to the replenishment of the Escrow Account per Section 5.A.6.
4. The Applicant, or his duly authorized representative, shall attend the meeting of the Board to discuss the Final Plan.
5. Upon filing the application, the Board shall issue a dated receipt to the Applicant.

6. Within thirty (30) days of the receipt of the Final Plan application, the Board shall determine whether the application is complete and notify the Applicant in writing of its determination. If the application is not complete, the Board shall notify the Applicant of the specific additional material needed to complete the application.

7. Upon determination that a complete application had been submitted for review, the Board shall notify the Applicant in writing. The Board shall determine whether to hold a public hearing on the Final Plan application.

8. If the Board decides to hold a public hearing, it shall hold the hearing within thirty (30) days after the issuance of a receipt for the submittal of a complete application. This hearing shall be advertised in a newspaper of local circulation (e.g. *The Times Record*) at least two (2) times, the date of the first publication to be at least seven (7) days but not more than fourteen (14) days before the hearing and the notice of the hearing shall be posted in at least three prominent places in the Town at least seven (7) days, but not more than fourteen (14) days prior to the hearing

9. When a subdivision is located within five hundred (500) feet of the boundary of an abutting municipality, and a public hearing is to be held, the Board shall notify the Clerk and the Planning Board of the adjacent municipality at least ten (10) days prior to the hearing. If any portion of a subdivision crosses municipal boundaries, the reviewing authorities from each municipality shall meet jointly to discuss the application.

10. Before the Board grants approval of the Final Plan, the subdivider shall meet the performance guarantee requirements contained in Section 11.

11. The Board, within thirty (30) days from the public hearing, or within sixty (60) days of receiving a complete application, or within another time limit as may be mutually agreed to by the Applicant and the Board, shall make findings of fact and conclusions relative to the standards contained in Title 30-A, M.R.S.A. Sec. 4404, and in this Ordinance.

12. If the Board finds that all standards of the Statute and this Ordinance have been met, they shall approve the Final Plan. If the Board finds that any of the standards of the Statute and this Ordinance have not been met, the Board shall either deny the application, or approve the application with conditions, to ensure all of the standards will be met by the subdivision. The reasons for any conditions shall be stated in the records of the Board.

C. Final Approval and Filing.

1. No Plan shall be approved by the Board as long as the Applicant is in default on a previously approved Plan.

2. Upon findings of fact and determination that all standards in Title 30-A, M.R.S.A., Section 4404, and this Ordinance have been met, the Board shall specify in writing its findings of facts and reasons for any conditions or denial. Upon voting to approve the subdivision, the Board shall sign the non-folded all-original, signed, certified, and sealed Final Plan map. One working copy of the signed Plan shall be retained by the Board as part of its permanent records. One copy of the signed Plan shall be forwarded to the Tax Assessors/Selectmen. One copy of the signed Plan shall be forwarded to the Code Enforcement Officer. The Subdivision Plan must be recorded in the Sagadahoc Registry of Deeds by the Applicant within ninety (90) days from the date of approval or the Plan shall become null and void. A signed/sealed copy shall also be returned to the Board by the Applicant within ten (10) days of recordation.

3. At the time the Board grants Final Plan approval, it may permit the Plan to be divided into two or more phases subject to any conditions the Board deems necessary in order to ensure the orderly development of the Plan. If Town Officials inform the Board that the Town does not have adequate facilities to service the subdivision, the Board may require the Plan to be divided into two or more phases subject to any conditions the Board deems necessary in order to allow the orderly planning, financing and provision of public services to the subdivision.

4. No changes, erasures, modifications, or revisions shall be made to the Final Plan after approval has been given by the Board and endorsed in writing on the Plan, unless a revised Final Plan is first submitted and revision(s) with dates are marked on the Plan and the Board approves any modifications, except in accordance with Section 6.C.2. The Board shall make findings that the revised plan meets the standards of Title 30-A, M.R.S.A., Section 4404, and this Ordinance. In the event the Plan is recorded without complying with this requirement, it shall be considered null and void, and the Board shall institute proceedings to have the Plan stricken from the records of the Sagadahoc Registry of Deeds.

5. The approval by the Board of a subdivision Plan shall not be deemed to constitute or be evidence of any acceptance by the Town of any road easement, recreational area or other open space shown on such Plan. Approval of the Plan shall not constitute an acceptance by the Town of such areas. The Board shall require the Plan to contain appropriate notes to this effect.

6. Failure to complete substantial construction of the subdivision within five (5) years of the date of approval and signing of the Plan shall render the Plan null and void. Upon determining that a subdivision's approval has expired under this paragraph, the Board shall have a notice to that effect placed in the Sagadahoc Registry of Deeds.

Section 7. General Standards

In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a Final Plan. In all instances the burden of proof shall be upon the Applicant.

A. Conformance with Comprehensive Plan. All proposed subdivisions shall be in conformity with the Comprehensive Plan of the Town of Phippsburg.

B. Retention of Common Land and Natural or Historic Features.

1. A subdivision of six (6) lots or greater, the developer shall provide common land for use by the residents of that subdivision. Common land shall be calculated at four thousand (4000) square feet per subdivision lot.

2. Land reserved for common land purposes shall be of a character, configuration and location suitable for the particular use intended. Preservation of historic attributes shall be considered by the Board.

C. Land Suitable for Development

1. The net residential acreage shall be calculated by taking the total area of the proposed subdivision and subtracting the following:

- a. The area of proposed roads and parking;
- b. Portions of the lot shown to be in a floodway or a coastal high hazard zone as designated in the Flood Boundary and Floodway Map prepared by the Federal Insurance Administration;
- c. Portions of the lot which are unsuitable for development in their natural state due to topographical, drainage or subsoil conditions such as, but not limited to:
 - i. Slopes greater than 20%;
 - ii. Wetland soils;
 - iii. Portions of the lot subject to rights of way including utility easements;
 - iv. Portions of the lot located in the Resource Protection district;
 - v. Land below the normal high water mark of any water body;
 - vi. Lands identified for reserve septic sites;
 - vii. Portions of the lot covered by surface waters;
 - viii. Portions of the lot utilized for storm water management facilities;
 - ix. Land that has been created by filling or draining a pond or wetland.

D. Skyline Building Height

All building heights shall be in compliance with applicable Town ordinances.

E. Lots

1. The minimum lot size shall be forty thousand (40,000) sq. ft. per single family residential dwelling unit
2. Lot configuration shall be designed to provide for a minimum of two (2) off-road parking spaces. Island lots shall provide mainland parking for a minimum of two (2) off-road parking spaces.
3. Land on one side of a road or a body of water more than fifteen (15) feet wide may not be combined with land on the other side of the road or the body of water to meet the minimum lot size.
4. The ratio of lot length to width shall not be more than three (3) to one (1) for any lot.

F. Required Improvements

The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations.

1. Permanent Markers (see definition)
 - a. Shall be set at all road intersections and points of curvature;
 - b. Shall be set at all other subdivision boundary corners and angle points;
 - c. Shall be set at all lot boundary corners and angle points;
 - d. Shall be permanently set into the ground a minimum of four (4) feet. If the four (4) feet is unobtainable, the Permanent Marker shall be set as required by the Maine Board of Registration of Land Surveyors.
2. Water Supply
 - a. If a central water supply system is provided by the subdivider, the location and protection of the source, and the design, construction and operation of the system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
 - b. If individual private wells are to be used, wells shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 232).

3. Sewage Disposal

- a.** The developer shall submit a lot-by-lot plan of soil suitability for subsurface sewage disposal prepared by a Maine Licensed Site Evaluator in full compliance with the requirements of the State of Maine Subsurface Wastewater Disposal Rules. In addition, on lots in which the limiting factor has been identified as being within twelve (12) inches of the surface, a second site with suitable soils shall be shown as a reserve area for future replacement of the disposal area. The reserve area shall be shown on the Plan and restricted so as not to be built upon.
- b.** In no instance shall a disposal area be permitted on soils or on a lot which would require a New System Variance from the State of Maine Subsurface Wastewater Disposal Rules.
- c.** A lot not having suitable soils for an onsite disposal system may be served by a shared system on an adjoining lot or a central sewer system in compliance with State of Maine Subsurface Wastewater Disposal Rules.

4. Solid Waste

If the additional solid waste from the proposed subdivision exceeds the capacity of the Town's solid waste facility and causes the facility to no longer be in compliance with its license from the Department of Environmental Protection, or causes the Town to exceed its contract with a non-municipal facility, the Applicant shall make alternate arrangements for the disposal of solid waste. The alternate arrangements shall be at a disposal facility which is in compliance with its license. The Board may not require the alternate arrangement to exceed a period of five years.

5. Surface Drainage

- a.** Where a subdivision is traversed by a stream, river, or surface water drainage way, or where the Board determines that surface water runoff to be created by the subdivision should be controlled, a storm water management system designed by a Registered Professional Engineer shall be provided.
- b.** Drainage easement(s) conforming substantially with existing natural contours for an existing watercourse, or for a proposed drainage way, shall be provided and indicated on the Plan.

c. The developer shall provide a statement from the designing engineer that the proposed subdivision will not create erosion, drainage or runoff problems either in the subdivision or on other properties. Where the peak runoff from the subdivision onto other properties is increased either in volume or duration, easements from the abutting property owners, allowing such additional discharge, shall be obtained.

d. A storm water drainage plan, showing ditching, culverts, storm drains, easements, and other proposed improvements, shall be submitted.

6. Erosion and Sedimentation and Impact on Water Bodies

a. The proposed subdivision shall prevent soil erosion and sedimentation from entering waterbodies, wetlands, and adjacent properties.

b. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction, and clean-up stages.

c. Cutting or removal of vegetation along waterbodies shall be done in compliance with the Town of Phippsburg Shoreland Zoning Ordinance.

d. Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations.

G. Dedication and Maintenance of Common Land and Services.

1. All common land shall be owned jointly or in common by the owners of the dwelling units or lots by means of a Homeowners Association.

2. Subdivision of the common land and its use for other than non-commercial recreation or conservation purposes shall be prohibited.

a. Easements for underground utilities and reserve space for replacement septic systems may be allowed with Board approval.

b. Structures and buildings accessory to non-commercial recreational or conservation uses may be erected on the common land with Board approval.

3. The common land shall be shown on the Final Plan with appropriate notation on the Plan to indicate that it shall not be used for future building lots or units.

4. If any or all of the common land and services are to be reserved for use by the residents, the bylaws of the proposed Homeowners Association shall specify maintenance responsibilities and shall be submitted to the Board prior to Final Plan approval.
5. Covenants for mandatory membership in the Homeowners Association setting forth the owners' rights, interests, and privileges in the Homeowners Association and the common land and facilities, shall be reviewed by the Board and included in the deed for each lot or dwelling.
6. The Homeowners Association shall have the responsibility of maintaining the common land and facilities.
7. The Homeowners Association shall levy annual charges against all owners of dwelling units or lots to defray the expenses connected with the maintenance of common land and facilities, roads and tax assessments.
8. The subdivider shall maintain control of the common land and facilities, and be responsible for its maintenance until development sufficient to support the Homeowners Association has taken place.

H. Construction in Flood Prone Areas

1. Based on the Federal Emergency Management Agency's Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the Applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the Applicant shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision Plan must include a condition of Plan approval requiring that principal structures in the subdivision shall be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation. If any portion of a lot is within the flood plain such designation shall be indicated in the deed.
2. Other State and Federal permits may be required in flood hazard areas.

Section 8. Road and Storm Drainage Design and Construction

A. General Requirements.

1. The Board shall not approve any subdivision plan unless proposed roads and storm water management systems are designed in accordance with the specifications contained in these regulations or any other local ordinance requirements specified by the Board. Approval of the Final Plan by the Board shall not be deemed to constitute or be evidence of acceptance by the Town of any road or easement.

2. The Applicant shall submit to the Board, as part of the Final Plan, detailed construction drawings showing a plan view, profile, and typical cross-sections of the proposed roads. The plans shall include the following information:
 - a. Date, scale, magnetic and true north points;
 - b. Intersections of the proposed road with existing roads;
 - c. Roadway and right-of-way limits including edge of traveled way and edge of shoulder;
 - d. Type, size, location, material, profile and cross-section of all existing and proposed drainage structures and their location with respect to the existing natural waterways and proposed drainage ways;
 - e. Complete curve data shall be indicated for all horizontal and vertical curves;
 - f. Turning radii at all intersections turn-arounds and cul-de-sacs;
 - g. Center line gradients;
 - h. Locations of all existing and proposed overhead and underground utilities.

3. Upon receipt of plans for a proposed public road the Board shall forward one copy each to the Selectmen and the Road Commissioner for review and comment.

4. No lot in a subdivision may be sold, leased, or otherwise conveyed before an approved road is completed to that lot.

5. Any lot or lots with legally contested boundary lines shall not be sold until written proof of agreement has been provided to the Board.

B. Road Standards

1. These design standards shall be met by all roads within subdivisions, and shall control the roadway, shoulders, curbs, sidewalks, drainage systems, culverts, and other appurtenances.
2. The character, extent, width, and grade of all roads shall be considered in their relation to existing or planned roads.
3. Roads should be designed to discourage through traffic within a residential subdivision.
4. The subdivision shall designate no more than two access/egress points, either roads or driveways, for the subdivision unless there are special safety or topographical considerations to be determined by the Board. Any access/egress road for the subdivision shall have a twenty (20) foot setback from any subdivision property line.
5. Where a subdivision lot abuts or contains an existing or proposed public road, the lot shall not have direct vehicular access to the public road, except as determined by the Board in Section 8. B. 2. **Any restriction/determination shall be noted on the Final Plan and affected deeds.**

6. All roads in a subdivision shall be designed and constructed to meet the following standards:

- | | |
|---------------------------------------|---|
| a. Minimum right-of-way | 50 ft. |
| b. Minimum width of travel surface | 18 ft. |
| c. Maximum grade | 10% |
| d. Maximum grade at intersections | 3% within 50 ft. of intersections |
| e. Minimum angle of intersections | 90 degrees |
| f. Width of shoulders | 2 ft. |
| g. Road base (minimum) gravel | 12 inches gravel |
| h. Road crown (minimum) | ½ inch per ft. gravel; ¼ inch per ft. paved |
| i. Adequate dead end road turn around | per Section: 8.B.8. |

7. The center line of the roadway shall be the center line of the right-of-way.

8. Dead End Roads.

- a. In addition to the design standards above, dead-end roads shall be constructed to provide a cul-de-sac turn-around with sixty-five (65) ft. radii and eighteen (18) ft. travel surface with two (2) ft. shoulders, or, the traveled way shall extend a minimum of seventy-five (75) ft. beyond a turning branch which shall also be a minimum of seventy-five (75) ft. in length. The travel surface of a turn-around extension and branch shall be a minimum of thirty (30) ft. in width.

9. Grades, Intersections, and Sight Distances.

- a. Grades of all roads shall conform in general to the terrain so that cut and fill are minimized while maintaining the grade standards above.
- b. All changes in grade shall be connected by vertical curves to provide for the minimum sight distances specified in the table below.
- c. Where new road intersection or driveway curb-cuts are proposed, the minimum sight distance shall be two hundred and fifty (250) ft. as measured along the road onto which traffic will be turning. Sight distances shall be based upon the posted speed limit and conform to the table below:

Posted Speed Limit (mph) -	0-25	30	35	40	45	50	55	
Sight Distance (feet)	-	250	300	350	400	450	500	550

- d. Corner lots shall be cleared of all growth and sight obstructions, including ground excavation, to achieve the required sight distances above.

10. Preparation of Road.

- a. Before any clearing has started on the right-of- way, the center line and side lines of the new road shall be staked or flagged at fifty foot intervals.
- b. Before grading is started, the entire right-of-way shall be cleared of all stumps, roots, brush, and other objectionable material. All large boulders, and tree stumps shall be removed from the right-of-way.
- c. All organic materials shall be removed to a depth of two feet below the sub-grade of the roadway. Rocks and boulders shall also be removed to a depth of two feet below the sub-grade of the roadway. On soils which have been identified as not suitable for roadways, the subsoil shall be removed from the road site to a depth of two feet below the sub-grade and replaced with suitable gravel material, as follows:

- i. The sub-base course aggregate shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls or clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/4 inch	25-70%
No. 40	0-30%
No. 200	0-7%

Aggregate for the sub-base shall contain no particles of rock exceeding four inches in any dimension.

ii. The sub-base course aggregate shall be sand or gravel of hard durable particles free from vegetative matter, lumps or balls of clay and other deleterious substances. The gradation of the part that passes a 3 inch square mesh sieve shall meet the following grading requirements:

Sieve Designation	Percentage by Weight Passing Square Mesh Sieves
1/2 inch	45-70%
1/4 inch	30-55%
No. 40	0-20%
No. 200	0-5% paved surface
No. 200	7-12% gravel surface

d. Side slopes shall be no steeper than a slope of three (3) feet horizontal to one (1) foot vertical (3 to 1), and shall be stabilized per the Maine Stormwater Best Management Practices Manual.

11. Additional Improvements and Requirements

a. Erosion Control. The procedures outlined in the Maine Stormwater Best Management Practices Manual shall be implemented during the site preparation, construction, and cleanup stages.

b. Cleanup. Following road construction, the developer or contractor shall conduct a thorough clean-up of road construction debris from the entire road right-of-way. Onsite disposal of the stumps and road construction spoils shall be indicated on the Plan, and shall be suitably covered with fill sand topsoil, limed, fertilized, and seeded, when completed.

c. Road Names, Signs. Roads which join and are in alignment with roads of abutting or neighboring properties shall bear the same name. Names of new roads shall not duplicate, nor bear phonetic resemblance to the names of existing roads within the Town, and shall be subject to the approval of the E-911 Addressing Officer and the Board. The developer shall reimburse the Town for the costs of installing traffic safety and control signs within the public right of way if required by the Road Commissioner.

d. Mailboxes shall be placed in accordance with current U.S. Postal Service requirements.

e. Certification of Construction. Upon completion of road construction and at the direction of the Board, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Board at the expense of the Applicant, certifying that the completed road meets or exceeds the design and construction requirements of the subdivision ordinance.

Section 9. Cluster Developments

A. Purpose

1. The purpose of these provisions is to allow for flexibility in the design of housing developments to allow for the creation of open space, which provides recreational opportunities or protects important natural features from the adverse impacts of development. Notwithstanding provisions of the ordinance relating to dimensional requirements, the Board, in reviewing and approving proposed residential subdivisions, may modify the provisions related to dimensional requirements to permit flexibility in approaches to housing and environmental design in accordance with the following guidelines. This shall not be construed as granting variances to relieve hardship, and action by the Board of Appeals shall not be required.
2. Cluster subdivisions are prohibited in the Shoreland Zone.
3. Multi-unit housing shall not exceed ten (10) units per structure.

B. Basic Standards for Cluster Developments

1. Cluster developments shall meet all requirements of this ordinance except as modified by Section 9.
2. Each structure shall be an element of an overall plan for site development. Only developments having a total site plan for structures will be considered. The application shall illustrate the placement of structures and the treatment of spaces, paths, roads, service and parking and in so doing shall take into consideration all requirements of this section and of other relevant sections of these regulations.
3. The Board shall allow lots within cluster developments to be reduced in lot area (*to no less than twenty thousand [20,000] sq. ft.*), street frontage and lot width below the minimum normally required by this ordinance in return for provision of common open space, as long as the net residential density of forty thousand (40,000) sq. ft. per residential dwelling unit is not exceeded, according to the calculations in Section 7.C.
4. The net residential acreage shall be calculated per Section 7.C.
5. In order to determine the maximum number of residential dwelling units permitted on a tract of land, the net residential acreage as determined in Section 7.C. shall be divided by forty thousand (40,000) sq. ft.

6. The total area of common open space within the development shall equal or exceed the sum of the areas by which any building lots are reduced below the minimum lot area normally required forty thousand (40,000) sq. ft.. However, at least fifty percent (50%) of the area of the entire parcel or tract shall be included as common open space. Common open space shall not include road rights-of-way, streets, drives, or parking. No more than fifty percent (50%) of the common open space shall consist of forested or open wetlands of any size.
7. Common open space may not be divided into more than two (2) separate parcels.
8. The minimum distance between residential structures shall not be less than forty (40) feet.
9. No individual lot or dwelling unit shall have direct vehicular access onto a public road existing at the time of development.
10. The common open space shall be owned and managed according to the standards of Section 7.G.
11. The Applicant shall be responsible for the maintenance of the common open space and the other common facilities, until development sufficient to support the homeowners association has taken place. The transfer of responsibility shall occur only after review and approval by the Board, upon request by the homeowners association or the Applicant.

Section 10. Inspections and Enforcement

A. Inspection of Required Improvements

1. The subdivider or builder shall notify the Codes Enforcement Officer in writing at least five (5) days in advance of each major construction phase.
2. If the inspecting official finds upon inspection of the improvements that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the subdivider, the inspecting official shall so report in writing to the Selectmen, Board, and the subdivider and builder. The Selectmen shall take any steps necessary to assure compliance with the approved plans.
3. If at any time before or during construction of the required improvements, it appears to be necessary or desirable to modify the required improvements, the subdivider shall obtain permission to modify the plans from the Board.
4. Upon completion of road construction and prior to a vote by the Town Meeting, a written certification signed by a professional engineer registered in the State of Maine shall be submitted to the Selectmen at the expense of the Applicant, certifying that the proposed town way meets or exceeds the design and construction requirements of these regulations. If any utilities are installed, the servicing utility shall certify in writing that they have been installed in a manner acceptable to the utility.

B. Violations and Enforcement.

1. No Plan of a division of land within the Town which would constitute a subdivision shall be recorded in the Registry of Deeds until a Final Plan has been approved by the Board in accordance with these regulations.
2. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Sagadahoc Registry of Deeds.
3. No person, firm, corporation or other legal entity may convey, offer or agree to convey any land in an approved subdivision which is not shown on the Final Plan as a separate lot.
4. Any person, firm, corporation or other legal entity who conveys, offers or agrees to convey any land in a subdivision which has not been approved as required by these regulations shall be fined by not less than five hundred (500) dollars, and not more than two thousand five hundred (2,500) dollars for each such conveyance, offering or agreement. The Town shall institute proceedings to enjoin the violation of this section, and shall attempt to collect attorneys' fees and court costs if the Town is the prevailing party.

5. No public utility, or any utility company of any kind shall serve any lot in a subdivision for which a Final Plan has not been approved by the Board.

6. Development of a subdivision without Board approval shall be a violation of Town Ordinance and State Law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a Final Plan approved as provided in these regulations and recorded in the Sagadahoc Registry of Deeds.

Section 11. Performance Guarantee

A. Types of Guarantees. With submittal of the application for Final Plan approval, the subdivider shall, at the direction of the Board, provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time-span of the construction schedule and the inflation rate for construction costs:

1. Either a certified check payable to the Town or a savings account, or certificate of deposit naming the Town as owner, for the establishment of an escrow account; or
2. A performance bond payable to the Town, issued by a surety company, approved by the Selectmen; or
3. An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the Selectmen; or
4. An offer of conditional approval limiting the number of units built or lots sold until all required improvements have been constructed.

The conditions and amount of the performance guarantee shall be determined by the Board. The advice of the Road Commissioner and Selectmen may be required as part of this determination.

B. Contents of Guarantee. The performance guarantee shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release or part or a l l of the performance guarantee to the developer, and a date after which the developer w i l l be in default and the Town shall have access to the funds to finish construction.

C. Escrow Account. A cash contribution to the establishment of an escrow account shall be made by either a certified check made out to the Town, the direct deposit into a savings account, or the purchase of a certificate of deposit. For any account opened by the subdivider, the Town shall be named as owner or co-owner, and the consent of the Town shall be required for a withdrawal. Any interest earned on the escrow account shall be returned to the subdivider unless the Town has found it necessary to draw on the account, in which case the interest earned shall be proportionately divided between the amount returned to the subdivider and the amount withdrawn to complete the required improvements.

D. Performance Bond. A performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the subdivider, and the procedures for collection by the Town. The bond documents shall specifically reference the subdivision for which approval is sought.

E. Letter of Credit. An irrevocable letter of credit from a bank or other lending institution with offices in the region shall indicate that funds have been set aside for the construction of the subdivision for the duration of the project and may not be used for any other project or loan.

F. Phasing of Development. The Board may approve plans to develop a subdivision in separate and distinct phases. This may be accomplished by limiting final approval to those lots abutting that section of the proposed subdivision road which is covered by a performance guarantee. When development is phased, road construction shall commence from an existing public way. Final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.

G. Release of Guarantee. Prior to the release of any part of the performance guarantee, the Board shall determine to its satisfaction that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

H. Default. If, upon inspection, the Board finds that any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, they shall so report in writing to the Codes Enforcement Officer, the Selectmen, and the subdivider or builder. The Selectmen shall take any steps necessary to preserve the Town's rights.

I. Private Roads. Where the subdivision roads are to remain private roads, **the following words shall appear on the recorded plan:**

"All roads in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be maintained by the Town."

J. Improvements Guaranteed. Performance guarantees shall be tendered for all improvements required by Section 7.F.1-6. of these regulations, as well as any other improvements required by the Board.

Section 12. Waivers

A. With respect to submission requirements or standards, when the Board makes written findings of fact that there are special circumstances relating to a proposed subdivision, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical development, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purpose of The Comprehensive Plan, The Shoreland Zoning and Land Use Ordinances, Section 1 of this Ordinance, or Maine State Law.

B. With respect to required improvements, when the Board makes written findings of fact that special circumstances exist in the proposed subdivision and these improvements are not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.

C. In granting waivers to any of these regulations in accordance with Sections 12.A. and 12. B. the Board shall require such conditions as will assure the objectives of these regulations are met.

D. When the Board grants a waiver to any of the improvements required by these regulations, the Final Plan, to be recorded at the Registry of Deeds, shall indicate the waivers granted and the date on which they were granted.

Section 13. Appeals

A. An appeal of a written decision by the Board must be submitted within thirty (30) days to the Board of Appeals. Any appeal must be in accordance with the Town Board of Appeals Ordinance.

Section 14. Definitions

A. A term not defined here shall have the customary and applicable dictionary meaning as found in Randall House Webster’s Dictionary 2nd Edition, copyright 2001 by Randall Publishing, Inc. A copy of this dictionary is located in the Phippsburg Town Hall.

B. For the purposes of **this Ordinance**, the following definitions shall apply:

ACRE: An acre contains 43,560 sq. ft.

APPLICANT: The person applying for subdivision approval under these regulations.

AVERAGE DAILY TRAFFIC (ADT): The average number of vehicles per day that enter and exit the premises or travel over a specific section of road.

BUILDING: See Structure

CENTER LINE GRADIENT: Degree of inclination, or the rate of ascent or descent, in a roadway.

CLUSTER SUBDIVISION: A subdivision in which the lot sizes are reduced below the forty thousand (40,000) sq. ft. per single family dwelling unit required in the Land Use Ordinance, in return for the provision of permanent open space owned in common by lot/unit owners. Clustering shall not be used to increase the overall net residential density of the development. This includes town houses, condominiums and apartments.

COMMON OPEN SPACE / COMMON LAND: Land or facilities designated for common use of the residents of the subdivision.

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 Planning Board to waive the submission of required information.

COMPREHENSIVE PLAN OR POLICY STATEMENT: Any part or element of the overall plan or policy for development of the Town as defined in Title 30-A M.R.S.A., Sec. 4301.

CONTIGUOUS LOTS: Lots which adjoin at any line or point, or are separated by a body of water less than fifteen feet wide.

DENSELY DEVELOPED AREA: Refer to Appendix A

DENSITY: See Net Residential Density

DEVELOPED AREA: Any area on which a site improvement or change is made, including buildings, landscaping, parking areas, and roadways.

DEVELOPER: See Applicant

DRIVEWAY: A vehicular access-way of no more than five hundred (500) feet in length, serving no more than two dwelling units.

DWELLING UNIT: Any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments, mobile homes and time shares.

ENGINEERED SUBSURFACE WASTEWATER DISPOSAL SYSTEM: A subsurface waste water disposal system designed, installed, and operated as a single unit to treat and dispose of 2,000 gallons of waste water per day or more; or any system designed to be capable of treating waste water with higher BODS and total suspended solids concentrations than domestic waste water.

FINAL PLAN: The final drawings, on which the Applicant's plan of subdivision is presented to the Planning Board for approval and which, if approved, must be recorded at the Sagadahoc Registry of Deeds.

FRESHWATER WETLAND: Areas which are 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 are not part of a great pond, coastal wetland, river, stream or brook. Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria.

GREAT POND: Any inland body of water which in a natural state has a surface area in excess of ten acres, and any inland body of water artificially formed or increased which has surface area in excess of thirty acres, except for the purposes of these regulations, where the artificially formed or increased inland body of water is completely surrounded by land held by a single owner.

HIGH INTENSITY SOIL SURVEY: A soil survey conducted by a Certified Soil Scientist, meeting the standards of the National Cooperative Soil Survey, which identifies soil types down to 1/10 acre or less at a scale equivalent to subdivision plan submitted. The mapping units shall be the soil series. Single soil test pits at their evaluation shall not be considered to constitute high intensity soil surveys.

HIGH WATER MARK OF COASTAL WATERS: That line on the shore of tidal waters reached by the shoreward limit of the rise of the tides at times tidal charts published by the National Oceanic and Atmospheric Administration list 11 foot tides for Portland, said line may be determined by agreement between the Applicant and the Planning Board in consultation with the Codes Enforcement Officer. In cases where the Applicant and the Planning Board disagree, the Applicant shall submit evidence from a certified Maine surveyor establishing the 11 foot tide line, or the application shall be held in abeyance until the actual line can be determined by inspection by the Codes Enforcement Officer of an actual tide height during a non-storm period.

HUNDRED YEAR FLOOD: The highest level of flood that, on the average, has a one percent chance of occurring in any given year.

MONUMENT: Standard surveyor's monument is a steel bar with a mushroom top or as otherwise identified in accordance with the State Subdivision Law, Title 30-A M.R.S.A. Section 4406, Section 2.

NET RESIDENTIAL ACREAGE: The total acreage available for subdivision, and shown on the proposed subdivision plan, minus the area for roads or access and the areas which are unsuitable for development as outlined in Section 7. C.

NET RESIDENTIAL DENSITY: The number of single family residential dwelling units allowed within the net residential acreage.

NORMAL HIGH WATER LINE (non-tidal waters): That line which is apparent from visible markings, changes in the character of soils due to prolonged action of the water or changes in vegetation, and which distinguishes between predominantly aquatic and predominantly terrestrial land. Areas contiguous with rivers and great ponds that support non-forested wetland vegetation and hydric soils and that are at the same or lower elevation as the water level of the river or great pond during the period of normal high water are considered part of the river or great pond.

NORMAL HIGH WATER LINE (tidal waters): It is the point of highest inland flow of the tides when the tides at Portland have a height of 11 feet. In the case of wetlands adjacent to rivers and ocean front, the normal high-water line is the upland edge of the wetland, and not the edge of open water.

OPEN SPACE: See common open space.

PARKING LOT: Shall be sized for the proposed use and shall be designed to prevent storm water runoff from flowing directly into a water body, tributary stream or wetland and where feasible, to retain all runoff on-site. In determining the appropriate size of a proposed parking lot, the following shall apply:

- a. Typical parking space: Minimum ten (10) feet wide and twenty (20) feet long.
- b. Internal travel aisles: Minimum twenty (20) feet wide

PARKING SPACE: One parking space shall be ten (10) feet by twenty (20) feet.

PERMANENT MARKER: See Monument.

PERSON: Includes a firm, association, organization, partnership, trust, company, corporation, or any other legal entity, as well as an individual.

PHIPPSBURG FLOOD PLAIN ORDINANCE: The ordinance which applies to a 11 lands within the flood hazard areas.

PLANNING BOARD: The Planning Board of the Town of Phippsburg created March 14, 1970, Per Title 30 MRSA Section 4952.

PRELIMINARY SUBDIVISION PLAN: The preliminary drawings showing the proposed layout of the subdivision to be submitted to the Planning Board for its consideration.

PRINCIPAL BUILDING: The building in which the use of the lot is conducted.

PROFESSIONAL ENGINEER: A professional engineer, registered in the State of Maine.

RESIDENTIAL DWELLING UNIT: A room or suite of rooms designed and equipped exclusively for use as permanent, seasonal, or temporary living quarters for only one family at a time, and containing cooking, sleeping and toilet facilities. The term shall include mobile homes, and rental units that contain cooking, sleeping, and toilet facilities regardless of the time-period rented. Recreational vehicles are not residential dwelling units.

RESUBDIVISION: The division of an existing subdivision or any change in the plan for an approved subdivision which affects the lot lines, including land transactions by the subdivider not indicated on the approved plan.

ROAD: Public and private ways such as alleys, avenues, boulevards, highways, streets, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way, excluding driveways as defined.

SKETCH PLAN: Conceptual maps, renderings, and supportive data describing the project proposed by the Applicant for initial review prior to submitting an application for subdivision approval.

"SPAGHETTI" LOT: A long, narrow lot also called "flag" or "bowling alley" lot. The ratio of lot length to width shall not be more than three-to-one (3-1) for any lot.

STRUCTURE: Anything built for the support, shelter or enclosure of persons, animals, goods or property of any kind, together with anything constructed or erected with a fixed location on or in the ground, exclusive of fences, poles, wiring and other aerial equipment normally associated with service drops as well as guying and guy anchors. The term includes structures temporarily or permanently located, including but not limited to, decks, patios, satellite dishes, rigid framed tents and tractor trailer boxes.

SUB-BASE: A layer of selected material placed on the sub-grade for the support of pavement

SUBDIVISION: Refer to Appendix A.

SUB-GRADE: The soil structure upon which a road is to be built.

SUBDIVIDER: See Applicant

SUBSTANTIAL START: The completion of thirty (30) percent of the proposed improvements within the subdivision.

TRACT OR PARCEL OF LAND: All contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.

VACANT LOT: A parcel of land that has no improvements.

WATERCOURSE: A natural channel conveying water.

Appendix A

30-A M.R.S.A. Sections 4401-4408 (Municipal Subdivision Law)

§ 4401. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Densely developed area. “Densely developed area” means any commercial, industrial or compact residential area of 10 or more acres with an existing density of at least one principal structure per 2 acres.
2. Dwelling unit. “Dwelling unit” means any part of a structure which, through sale or lease, is intended for human habitation, including single-family and multifamily housing, condominiums, apartments and time-share units.
- 2-A. Freshwater wetland. “Freshwater wetland” means 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 subsection.
- 2-B. Farmland. “Farmland” means a parcel consisting of 5 or more acres of land that is:
 - 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
 - B. Used for production of agricultural products as defined in Title 7, section 152, subsection 2.
3. Principal structure. “Principal structure” means any building or structure in which the main use of the premises takes place.

4. Subdivision. “Subdivision” means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 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 3 or more dwelling units within a 5-year period.
 - A. In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of the tract or parcel is considered to create the first 2 lots and the next dividing of either of these first 2 lots, by whomever accomplished, is considered to create a 3rd lot, unless:
 - (1) Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider’s own use as a single-family residence that has been the subdivider’s principal residence for a period of at least 5 years immediately preceding the 2nd division; or
 - (2) The division of the tract or parcel is otherwise exempt under this subchapter.
 - B. 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 this subchapter, do not become subject to this subchapter by the subsequent dividing of that tract or parcel of land or any portion of that tract or parcel. The municipal reviewing authority shall consider the existence of the previously created lot or lots in reviewing a proposed subdivision created by a subsequent dividing.
 - C. A lot of 40 or more acres must be counted as a lot, except:
 - (2) When a municipality has, by ordinance, or the municipal reviewing authority has, by regulation, elected not to count lots of 40 or more acres as lots for the purposes of this subchapter when the parcel of land being divided is located entirely outside any shoreland area as defined in Title 38, section 435, or a municipality’s shoreland zoning ordinance.
 - D-1. A division accomplished by devise does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
 - D-2. A division accomplished by condemnation does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.

- D-3. A division accomplished by order of court does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. “Person related to the donor” means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph can not be given for consideration that is more than ½ the assessed value of the real estate.
- D-5. A division accomplished by a gift to a municipality if that municipality accepts the gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person without all of the merged land, then the previously exempt division creates a lot or lots for the purposes of this subsection.
- E. The division of a tract or parcel of land into 3 or more lots and upon each of which lots permanent dwelling structures legally existed before September 23, 1971 is not a subdivision.
- F. In determining the number of dwelling units in a structure, the provisions of this subsection regarding the determination of the number of lots apply, including exemptions from the definition of a subdivision of land.
- G. Notwithstanding the provisions of this subsection, leased dwelling units are not subject to subdivision review if the municipal reviewing authority has determined that the units are otherwise subject to municipal review at least as stringent as that required under this subchapter.
- H-1. This subchapter may not be construed to prevent a municipality from enacting an ordinance under its home rule authority that:
- (1) Expands the definition of “subdivision” to include the division of a structure for commercial or industrial use; or

(2) Otherwise regulates land use activities.

A municipality may not enact an ordinance that expands the definition of “subdivision” except as provided in this subchapter. A municipality that has a definition of “subdivision” that conflicts with the requirements of this subsection at the time this paragraph takes effect shall comply with this subsection no later than January 1, 2006. Such a municipality must file its conflicting definition at the county registry of deeds by June 30, 2003 for the definition to remain valid for the grace period ending January 1, 2006. A filing required under this paragraph must be collected and indexed in a separate book in the registry of deeds for the county in which the municipality is located.

- I. The grant of a bona fide security interest in an entire lot that has been exempted from the definition of subdivision under paragraphs D-1 to D-6, or subsequent transfer of that entire lot by the original holder of the security interest or that person’s successor in interest, does not create a lot for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
- 5. New structure or structures. “New structure or structures” includes any structure for which construction begins on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure for the purposes of this subchapter.
- 6. Tract or parcel of land. “Tract or parcel of land” means all contiguous land in the same ownership, except that lands located on opposite sides of a public or private road are considered each a separate tract or parcel of land unless the road was established by the owner of land on both sides of the road after September 22, 1971.
- 7. Outstanding river segments. In accordance with Title 12, section 402, “outstanding river segments” means:
 - A. The Aroostook River from the Canadian border to the Masardis and T.10, R.6, W.E.L.S. town line, excluding the segment in T.9, R.5, W.E.L.S.;
 - B. The Carrabassett River from the Kennebec River to the Carrabassett Valley and Mt. Abram Township town line;
 - C. The Crooked River from its inlet into Sebago Lake to the Waterford and Albany Township town line;
 - D. The Damariscotta River from the Route 1 bridge in Damariscotta to the dam at Damariscotta Mills;
 - E. The Dennys River from the Route 1 bridge to the outlet of Meddybemps Lake,

- excluding the western shore in Edmunds Township and No. 14 Plantation;
- F. The East Machias River, including the Maine River, from 1/4 of a mile above the Route 1 bridge to the East Machias and T.18, E.D., B.P.P. town line, from the T.19, E.D., B.P.P. and Wesley town line to the outlet of Crawford Lake, and from the No. 21 Plantation and Alexander town line to the outlet of Pocomoonshine Lake, excluding Hadley Lake, Lower Mud Pond and Upper Mud Pond;
- G. The Fish River from the bridge at Fort Kent Mills to the Fort Kent and Wallagrass Plantation town line, from the T.16, R.6, W.E.L.S. and Eagle Lake town line to the Eagle Lake and Winterville Plantation town line, and from the T.14, R.6, W.E.L.S. and Portage Lake town line to the Portage Lake and T.13, R.7, W.E.L.S. town line, excluding Portage Lake;
- H. The Kennebago River from its inlet into Cupsuptic Lake to the Rangeley and Lower Cupsuptic Township town line;
- I. The Kennebec River from Thorns Head Narrows in North Bath to the Edwards Dam in Augusta, excluding Perkins Township, and from the Route 148 bridge in Madison to the Caratunk and The Forks Plantation town line, excluding the western shore in Concord Township, Pleasant Ridge Plantation and Carrying Place Township and excluding Wyman Lake;
- J. The Machias River from the Route 1 bridge to the Northfield and T.19, M.D., B.P.P. town line;
- K. The Mattawamkeag River from the Penobscot River to the Mattawamkeag and Kingman Township town line, and from the Reed Plantation and Bancroft town line to the East Branch in Haynesville;
- L. The Narraguagus River from the ice dam above the railroad bridge in Cherryfield to the Beddington and Devereaux Township town lines, excluding Beddington Lake;
- M. The Penobscot River, including the Eastern Channel, from Sandy Point in Stockton Springs to the Veazie Dam and its tributary the East Branch of the Penobscot from the Penobscot River to the East Millinocket and Grindstone Township town line;
- N. The Piscataquis River from the Penobscot River to the Monson and Blanchard Plantation town line;
- O. The Pleasant River from the bridge in Addison to the Columbia and T.18, M.D., B.P.P. town line, and from the T.24, M.D., B.P.P. and Beddington town line to the outlet of Pleasant River Lake;

- P. The Rapid River from the Magalloway Plantation and Upton town line to the outlet of Pond in the River;
- Q. The Saco River from the Little Ossipee River to the New Hampshire border;
- R. The St. Croix River from the Route 1 bridge in Calais to the Calais and Baring Plantation town line, from the Baring Plantation and Baileyville town line to the Baileyville and Fowler Township town line, and from the Lambert Lake Township and Vanceboro town line to the outlet of Spednik Lake, excluding Woodland Lake and Grand Falls Flowage;
- S. The St. George River from the Route 1 bridge in Thomaston to the outlet of Lake St. George in Liberty, excluding White Oak Pond, Seven Tree Pond, Round Pond, Sennebec Pond, Trues Pond, Stevens Pond and Little Pond;
- T. The St. John River from the Van Buren and Hamlin Plantation town line to the Fort Kent and St. John Plantation town line, and from the St. John Plantation and St. Francis town line to the Allagash and St. Francis town line;
- U. The Sandy River from the Kennebec River to the Madrid and Township E town line;
- V. The Sheepscot River from the railroad bridge in Wiscasset to the Halldale Road in Montville, excluding Long Pond and Sheepscot Pond, including its tributary the West Branch of the Sheepscot from its confluence with the Sheepscot River in Whitefield to the outlet of Branch Pond in China;
- W. The West Branch of the Pleasant River from the East Branch in Brownville to the Brownville and Williamsburg Township town line; and
- X. The West Branch of the Union River from the Route 181 bridge in Mariaville to the outlet of Great Pond in the Town of Great Pond.

§ 4402. **Exceptions**

This subchapter does not apply to:

1. Previously approved subdivisions. Proposed subdivisions approved by the planning board or the municipal officials before September 23, 1971 in accordance with laws then in effect;
2. Previously existing subdivisions. Subdivisions in actual existence on September 23, 1971 that did not require approval under prior law;
3. Previously recorded subdivisions. A subdivision, a plan of which had been legally recorded in the proper registry of deeds before September 23, 1971;
4. Airports with an approved airport layout plan. Any airport with an airport layout plan that has received final approval from the airport sponsor, the Department of Transportation and the Federal Aviation Administration; or
5. Subdivisions in existence for at least 20 years. A subdivision in violation of this subchapter that has been in existence for 20 years or more, except a subdivision:
 - A. That has been enjoined pursuant to section 4406;
 - B. For which approval was expressly denied by the municipal reviewing authority, and record of the denial was recorded in the appropriate registry of deeds;
 - C. For which a lot owner was denied a building permit under section 4406, and record of the denial was recorded in the appropriate registry of deeds; or
 - D. That has been the subject of an enforcement action or order, and record of the action or order was recorded in the appropriate registry of deeds.

§ 4403. Municipal Review and Regulation

This section governs municipal review of proposed subdivisions.

1. Municipal reviewing authority. The municipal reviewing authority shall review all requests for subdivision approval. On all matters concerning subdivision review, the municipal reviewing authority shall maintain a permanent record of all its meetings, proceedings and correspondence.
- 1-A. Joint meetings. If any portion of a subdivision crosses municipal boundaries, all meetings and hearings to review the application must be held jointly by the reviewing authorities from each municipality. All meetings and hearings to review an application under section 4407 for a revision or amendment to a subdivision that crosses municipal boundaries must 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 criteria described in section 4404, subsection 19.

The reviewing authorities in each municipality, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.

2. Regulations; review procedure. The municipal reviewing authority may, after a public hearing, adopt, amend or repeal additional reasonable regulations governing subdivisions which shall control until amended, repealed or replaced by regulations adopted by the municipal legislative body. The municipal reviewing authority shall give at least seven (7) days' notice of this hearing.

- A. The regulations may provide for a multi-stage application or review procedure consisting of no more than three (3) stages:
 - (1) Preapplication sketch plan;
 - (2) Preliminary plan; and
 - (3) Final plan.

Each stage must meet the time requirements of subsections 4 and 5.

3. Application; notice; completed application. This subsection governs the procedure to be followed after receiving an application for a proposed subdivision.
 - 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 of the proposed subdivision, and the clerk and the reviewing authority of municipalities that abut or include any portion of the subdivision, specifying the location of the proposed subdivision and including a general description of the project. The municipal reviewing authority shall notify by mail a public drinking water supplier if the subdivision is within its source water protection area.

- 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.
 - D. The municipal reviewing authority may not accept or approve final plans or final documents prepared within the meaning and intent of Title 32, chapter 141 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32, section 18226.
4. Public hearing; notice. If the municipal reviewing authority decides to hold a public hearing on an application for subdivision approval, it shall hold the hearing within 30 days after determining it has received a complete application. The municipal reviewing authority shall have notice of the date, time and place of the hearing:
- A. Given to the applicant; and
 - B. Published, at least two (2) times, in a newspaper having general circulation in the municipality in which the subdivision is proposed to be located. The date of the first publication must be at least seven (7) days before the hearing.
5. Decision; time limits. The municipal reviewing authority shall, within 30 days of a public hearing or, if no hearing is held, within 60 days of determining it has received a complete application or within any other time limit that is otherwise mutually agreed to, issue an order:
- A. Denying approval of the proposed subdivision;
 - B. Granting approval of the proposed subdivision; or
 - C. Granting approval upon any terms and conditions that it considers advisable to:
 - (1) Satisfy the criteria listed in section 4404;
 - (2) Satisfy any other regulations adopted by the reviewing authority; and
 - (3) Protect and preserve the public's health, safety and general welfare.

§ 4403. Municipal Review and Regulation

6. Burden of proof; findings of fact. In all instances, the burden of proof is upon the person proposing the subdivision. In issuing its decision, the reviewing authority shall make findings of fact establishing that the proposed subdivision does or does not meet the criteria described in subsection 5.
7. Conditioned on variance. If the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance, the subdivider must comply with section 4406, subsection 1, paragraph B.

§ 4404. Review Criteria

When adopting any subdivision regulations and when reviewing any subdivision for approval, the municipal reviewing authority shall consider the following criteria and, before granting approval, must determine that:

1. Pollution. The proposed subdivision will not result in undue water or air pollution. In making this determination, it shall at least consider:
 - A. The elevation of the land above sea level and its relation to the flood plains;
 - B. The nature of soils and subsoils and their ability to adequately support waste disposal;
 - C. The slope of the land and its effect on effluents;
 - D. The availability of streams for disposal of effluents; and
 - E. The applicable state and local health and water resource rules and regulations;
2. Sufficient water. The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;
3. Municipal water supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;
4. Erosion. The proposed subdivision will not cause unreasonable soil erosion or a reduction in the land's capacity to hold water so that a dangerous or unhealthy condition results;
5. Traffic. The proposed subdivision will not cause unreasonable highway or public road congestion or unsafe conditions with respect to the use of the highways or public roads existing or proposed and, if the proposed subdivision requires driveways or entrances onto a state or state aid highway located outside the urban compact area of an urban compact municipality as defined by Title 23, section 754, the Department of Transportation has provided documentation indicating that the driveways or entrances conform to Title 23, section 704 and any rules adopted under that section;
6. Sewage disposal. The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized;
7. Municipal solid waste disposal. The proposed subdivision will not cause an unreasonable burden on the municipality's ability to dispose of solid waste, if municipal services are to be utilized;

8. Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline;
9. Conformity with local ordinances and plans. The proposed subdivision conforms with a duly adopted subdivision regulation or ordinance, comprehensive plan, development plan or land use plan, if any. In making this determination, the municipal reviewing authority may interpret these ordinances and plans;
10. Financial and technical capacity. The subdivider has adequate financial and technical capacity to meet the standards of this section;
11. Surface waters; outstanding river segments. Whenever situated entirely or partially within the watershed of any pond or lake or within 250 feet of any wetland, great pond or river as defined in Title 38, chapter 3, subchapter I, article 2-B, the proposed subdivision will not adversely affect the quality of that body of water or unreasonably affect the shoreline of that body of water.
 - A. When lots in a subdivision have frontage on an outstanding river segment, the proposed subdivision plan must require principal structures to have a combined lot shore frontage and setback from the normal high-water mark of 500 feet.
 - (1) To avoid circumventing the intent of this provision, whenever a proposed subdivision adjoins a shoreland strip narrower than 250 feet which is not lotted, the proposed subdivision shall be reviewed as if lot lines extended to the shore.
 - (2) The frontage and set-back provisions of this paragraph do not apply either within areas zoned as general development or its equivalent under shoreland zoning, Title 38, chapter 3, subchapter I, article 2-B, or within areas designated by ordinance as densely developed. The determination of which areas are densely developed must be based on a finding that existing development met the definitional requirements of section 4401, subsection 1, on September 23, 1983;
12. Ground water. The proposed subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of ground water;

13. Flood areas. Based on the Federal Emergency Management Agency’s Flood Boundary and Floodway Maps and Flood Insurance Rate Maps, and information presented by the applicant whether the subdivision is in a flood-prone area. If the subdivision, or any part of it, is in such an area, the subdivider shall determine the 100-year flood elevation and flood hazard boundaries within the subdivision. The proposed subdivision plan must include a condition of plan approval requiring that principal structures in the subdivision will be constructed with their lowest floor, including the basement, at least one foot above the 100-year flood elevation;
14. Freshwater wetlands. All freshwater wetlands within the proposed subdivision have been identified on any maps submitted as part of the application, regardless of the size of these wetlands. Any mapping of freshwater wetlands may be done with the help of the local soil and water conservation district;
- 14-A. Farmland. All farmland within the proposed subdivision has been identified on maps submitted as part of the application. Any mapping of farmland may be done with the help of the local soil and water conservation district;
15. River, stream or brook. Any river, stream or brook within or abutting the proposed subdivision has been identified on any maps submitted as part of the application. For purposes of this section, “river, stream or brook” has the same meaning as in Title 38, section 480-B, subsection 9;
16. Storm water. The proposed subdivision will provide for adequate storm water management;
17. Spaghetti-lots prohibited. If any lots in the proposed subdivision have shore frontage on a river, stream, brook, great pond or coastal wetland as these features are defined in Title 38, section 480-B, none of the lots created within the subdivision have a lot depth to shore frontage ratio greater than 5 to 1;
18. Lake phosphorus concentration. The long-term cumulative effects of the proposed subdivision will not unreasonably increase a great pond’s phosphorus concentration during the construction phase and life of the proposed subdivision; and
19. Impact on adjoining municipality. For any proposed subdivision that crosses municipal boundaries, the proposed subdivision will not cause unreasonable traffic congestion or unsafe conditions with respect to the use of existing public ways in an adjoining municipality in which part of the subdivision is located.

20. 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. If a violation of rules adopted by the Maine Forest Service to substantially eliminate liquidation harvesting has occurred, the municipal reviewing authority must determine prior to granting approval for the subdivision that 5 years have elapsed from the date the landowner under whose ownership the harvest occurred acquired the parcel. A municipal reviewing authority may request technical assistance from the Department of Agriculture, Conservation and Forestry, Bureau of Forestry to determine whether a rule violation has occurred, or the municipal reviewing authority may accept a determination certified by a forester licensed pursuant to Title 32, chapter 76. If a municipal reviewing authority requests technical assistance from the bureau, the bureau shall respond within 5 working days regarding its ability to provide assistance. If the bureau agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The bureau shall provide a written copy of its finding and determination to the municipal reviewing authority within 30 days of receipt of the municipal reviewing authority's request. If the bureau notifies a municipal reviewing authority that the bureau will not provide assistance, the municipal reviewing authority may require a subdivision applicant to provide a determination certified by a licensed forester.

For the purposes of this subsection, "liquidation harvesting" has the same meaning as in Title 12, section 8868, subsection 6 and "parcel" means a contiguous area within one municipality, township or plantation owned by one person or group of persons in common or joint ownership. This subsection takes effect on the effective date of rules adopted pursuant to Title 12, section 8869, subsection 14.

§ 4405. Access to Direct Sunlight

The municipal reviewing authority may, to protect and ensure access to direct sunlight for solar energy systems, prohibit, restrict or control development through subdivision regulations. The regulations may call for subdivision development plans containing restrictive covenants, height restrictions, side yard and set-back requirements or other permissible forms of land use controls.

§ 4406. Enforcement; Prohibited Activities

The Attorney General, the municipality or the planning board of any municipality may institute proceedings to enjoin a violation of this subchapter.

1. Sales or other conveyances. No person may sell, lease, develop, build upon or convey for consideration, or offer or agree to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved by the municipal reviewing authority of the municipality where the subdivision is located and approved under Title 38, chapter 3, subchapter I, article 6, where applicable, and subsequently recorded in the proper registry of deeds.
 - A. No register of deeds may record any subdivision plat or plan that has not been approved under this subchapter. Approval for the purpose of recording must appear in writing on the plat or plan. All subdivision plats and plans required by this subchapter must contain the name and address of the person under whose responsibility the subdivision plat or plan was prepared.
 - B. Whenever the initial approval or any subsequent amendment of a subdivision is based in part on the granting of a variance from any applicable subdivision approval standard, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds.
 - (1) In the case of an amendment, if no amended plan is to be recorded, a certificate must be prepared in recordable form and recorded in the registry of deeds. This certificate must:
 - (a) Indicate the name of the current property owner;
 - (b) Identify the property by reference to the last recorded deed in its chain of title; and
 - (c) Indicate the fact that a variance, including any conditions on the variance, has been granted and the date of the granting.
 - (2) The variance is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval or approval under Title 38, chapter 3, subchapter I, article 6, where applicable, whichever date is later, or the variance is void.

- B-1. Whenever the subdivision is exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, that fact must be expressly noted on the face of the subdivision plan to be recorded in the registry of deeds. The developable land, as defined in Title 38, section 488, subsection 5, must be indicated on the plan. The person submitting the plan for recording shall prepare a sworn certificate in recordable form and record it in the registry of deeds. This certificate must:
- (1) Indicate the name of the current property owner;
 - (2) Identify the property by reference to the last recorded deed in its chain of title and by reference to the subdivision plan;
 - (3) Indicate that an exemption from Title 38, chapter 3, subchapter I, article 6, has been exercised;
 - (4) Indicate that the requirements of Title 38, section 488, subsection 5, have been and will be satisfied; and
 - (5) Indicate the date of notification of the Department of Environmental Protection under Title 38, section 488, subsection 5.

The exemption is not valid until recorded as provided in this paragraph. Recording must occur within 90 days of the final subdivision approval under this subchapter or the exemption is void.

- C. A building official may not issue any permit for a building or use within a land subdivision unless the subdivision has been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable.
- D. Any person who sells, leases, develops, builds upon, or conveys for consideration, offers or agrees to sell, lease, develop, build upon or convey for consideration any land or dwelling unit in a subdivision that has not been approved under this subchapter and under Title 38, chapter 3, subchapter I, article 6, where applicable, shall be penalized in accordance with section 4452.
- E. Any person who, after receiving approval from the municipal reviewing authority or approval under Title 38, chapter 3, subchapter I, article 6 and recording the plan at the registry of deeds, constructs or develops the subdivision or transfers any lot in a manner other than depicted on the approved plans or amendments or in violation of any condition imposed by the municipal reviewing authority or the Department of Environmental Protection, when applicable, must be penalized in accordance with section 4452.
- F. Any person who sells, leases or conveys for consideration any land or

dwelling unit in a subdivision approved under this subchapter and exempt from Title 38, chapter 3, subchapter I, article 6, because of the operation of Title 38, section 488, subsection 5, shall include in the instrument of sale, lease or conveyance a covenant to the transferee that all of the requirements of Title 38, section 488, subsection 5, have been and will be satisfied.

2. Permanent marker required. No person may sell or convey any land in an approved subdivision unless at least one permanent marker is set at one lot corner of the lot sold or conveyed. The term “permanent marker” includes, but is not limited to, the following:
 - A. A granite monument;
 - B. A concrete monument;
 - C. An iron pin; or
 - D. A drill hole in ledge.
3. Utility installation. A public utility, water district, sanitary district or any utility company of any kind may not install services to any lot or dwelling unit in a subdivision, unless written authorization attesting to the validity and currency of all local permits required under this chapter has been issued by the appropriate municipal officials or other written arrangements have been made between the municipal officers and the utility, except that if a public utility, water district, sanitary district or utility company of any kind has installed services to a lot or dwelling unit in a subdivision in accordance with this subsection, a subsequent public utility, water district, sanitary district or utility company of any kind may install services to the lot or dwelling unit in a subdivision without first receiving written authorization pursuant to this section.
4. Permit display. A person issued a permit pursuant to this subchapter in a great pond watershed shall have a copy of the permit on site while work authorized by the permit is being conducted.

§ 4407. Revisions to Existing Plat or Plan

Any application for subdivision approval which constitutes a revision or amendment to a subdivision plan which has been previously approved shall indicate that fact on the application and shall identify the original subdivision plan being revised or amended. In reviewing such an application, the municipal reviewing authority shall make findings of fact establishing that the proposed revisions do or do not meet the criteria of section 4404.

1. Recording. If a subdivision plat or plan is presented for recording to a register of deeds and that plat or plan is a revision or amendment to an existing plat or plan, the register shall:
 - A. Indicate on the index for the original plat or plan that it has been superseded by another plat or plan;
 - B. Reference the book and page or cabinet and sheet on which the new plat or plan is recorded; and
 - C. Ensure that the book and page or cabinet and sheet on which the original plat or plan is recorded is referenced on the new plat or plan.

§ 4408. Recording Upon Approval

Upon approval of a subdivision plan, plat or document under section 4403, subsection 5, a municipality may not require less than 90 days for the subdivision plan, plat or document to be recorded in the registry of deeds.