

**TOWN OF VASSALBORO**  
**SUBDIVISION ORDINANCE**

**June 10, 2014**

ENACTED: \_\_\_\_\_  
Date

EFFECTIVE: \_\_\_\_\_  
Date

CERTIFIED BY: \_\_\_\_\_  
Name

\_\_\_\_\_  
Title

TOWN OF VASSALBORO SUBDIVISION ORDINANCE

TABLE OF CONTENTS

**SECTION 1 – PURPOSES AND APPLICABILITY.....4**  
1.1 Purposes..... 4  
1.2 Applicability..... 4  
**SECTION 2 – AUTHORITY, ADMINISTRATION AND APPEALS.....6**  
2.1 Authority..... 6  
2.2 Amendments to this Ordinance..... 6  
2.3 Interpretation, Conflict and Severability..... 6  
2.4 Effective Date and Repeal of Prior Ordinances..... 6  
2.5 Violations and Enforcement..... 7  
2.6 Appeals..... 7  
**SECTION 3 – DEFINITIONS..... 8**  
3.1 Construction of Language..... 8  
3.2 Definition of Terms..... 8  
**SECTION 4 - ADMINISTRATIVE PROCEDURES AND FEES.....12**  
4.1 Agenda..... 12  
4.2 Establishment of File for Subdivision..... 12  
4.3 Joint Meetings with Adjacent Municipalities..... 12  
4.4 Application Fee..... 12  
4.5 Escrow Account for Review by Outside Experts..... 12  
4.6 Transfer of Approved Subdivision Permits..... 12  
**SECTION 5 – APPLICATION REVIEW PROCESS.....13**  
5.1 Classification as Minor or Major Subdivision..... 13  
5.2 Minor Subdivisions..... 13  
5.3 Major Subdivisions..... 15  
5.4 Final Approval and Filing for Major and Minor Subdivisions..... 18  
**SECTION 6 - MINOR SUBDIVISION SUBMISSION REQUIREMENTS.....19**  
6.1 Sketch Plan Submissions..... 19  
6.2 Final Plan Submissions..... 19  
**SECTION 7 – MAJOR SUBDIVISION SUBMISSION REQUIREMENTS.....23**  
7.1 Sketch Plan Submissions..... 23  
7.2 Preliminary Plan Submissions..... 23  
7.3 Final Plan Submissions..... 27  
**SECTION 8 - REVIEW CRITERIA AND STANDARDS.....29**  
8.1 Sufficient Water Supply..... 29  
8.2 Impact on Groundwater Quality and Quantity..... 30  
8.3 Soil Erosion, Sedimentation and Impact on Water Bodies..... 31  
8.4 Traffic Conditions..... 31  
8.5 Sewage Disposal..... 32  
8.6 Solid Waste..... 33  
8.7 Aesthetic, Cultural and Natural Values..... 33  
8.8 Farmland..... 34  
8.9 Conformance with Local Ordinances and Plans..... 35  
8.10 Financial and Technical Capacity..... 35  
8.11 Floodplain Management..... 35  
8.12 Freshwater Wetlands, Rivers, Streams and Brooks..... 36  
8.13 Stormwater Management..... 36  
8.14 Lake Phosphorus Concentration..... 36  
8.15 Spaghetti Lots Prohibited (Shoreland Zoning Areas)..... 37  
8.16 Impact on Adjoining Municipality..... 37  
8.17 Lands Subject to Liquidation Harvesting..... 37

TOWN OF VASSALBORO SUBDIVISION ORDINANCE

---

8.18	Pollution.....	38
<b>SECTION 9 - WAIVERS.....</b>		<b>39</b>
9.1	Waivers of Certain Submission Requirements.....	39
9.2	Waivers of Certain Improvements.....	39
9.3	Requirements for Waivers.....	39
<b>SECTION 10 - REVISIONS TO APPROVED PLANS.....</b>		<b>39</b>
10.1	Procedure and Scope of Review.....	39
10.2	Submissions.....	39
<b>SECTION 11 - PERFORMANCE GUARANTEES AND INSPECTION OF REQUIRED IMPROVEMENTS</b>		<b>40</b>
.....		
11.1	Performance Guarantees.....	40
11.2	Types of Guarantees.....	40
11.3	Conditions and Contents of the Guarantee.....	40
11.4	Release of Guarantee.....	41
11.5	Conditional Agreement.....	41
11.6	Inspection of Required Improvements.....	41
<b>SECTION 12 - APPENDIX.....</b>		<b>42</b>
.....		
A. 30-A MRSA, §4401 (Definitions)		
B. 30-A MRSA §4403 (Municipal Review and Regulation)		
C. 30-A MRSA, §4404 (Review Criteria)		

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**SECTION 1 – PURPOSES AND APPLICABILITY**

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***1.1 Purposes***

The purposes of this Ordinance are as follows: to assure the comfort, convenience, safety, health, and welfare of the people of the Town of Vassalboro, Maine; to protect the environment; to promote the development of an economically sound and stable community; to assure that a sufficient level of services and facilities is available to the residents of new subdivisions and that lots in subdivisions are capable of supporting the proposed uses and structures; to minimize potential negative impacts from new subdivisions on neighboring properties and on the Town; to provide for the expeditious and efficient process for the review of proposed subdivisions; and to comply with 30-A, MRSA, §4403 (Municipal Review and Regulation) and §4404 (Review Criteria).

***1.2 Applicability***

- 1.2.1 The provisions of this Ordinance shall pertain to all land proposed for subdivision as defined in Title 30-A, MRSA, §4401(4), as amended. Also included are all mobile/manufactured home parks, condominiums, and apartment buildings or complexes proposed for subdivision into 3 or more dwelling units.
- 1.2.2 Any subdivision is a division of a tract or parcel of land into 3 or more lots within any 5-year period that begins after September 23, 1971. The 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 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, structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period.
- 1.2.3 In determining whether a tract or parcel of land is divided into 3 or more lots, the first dividing of such tract or parcel shall be considered to create the first 2 lots and the next dividing of either of the first 2 lots, by whomever accomplished, unless otherwise exempted herein shall be considered to create a 3rd lot, unless:
- A. Both dividings are accomplished by a subdivider who has retained one of the lots for the subdivider’s 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 2<sup>nd</sup> division; or the division of the tract or parcel is otherwise exempted under this section (Section 1.2 Applicability).
  - B. A lot of 40 acres or more shall not be counted as a separate lot, except where the lot or parcel from which it was divided is located entirely or partially within any shoreland area as defined in 38 MRSA, §435, or the Town of Vassalboro Shoreland Zoning Ordinance.
- 1.2.4 A division accomplished by devise, condemnation, order of court, gift to a person related to the donor by blood, marriage or adoption or a gift to a municipality (if the municipality accepts the gift), or by transfer of any interest in land to the owner of land abutting that land, does not create a lot or lots for the purposes of this Ordinance, unless the intent of the transferor in any transfer or gift is to avoid the objectives of this Ordinance. If the real estate exempt under this paragraph by a gift to a person related to the donor by blood, marriage or adoption is transferred within 5 years to another person not related to the donor of the exempt real estate by blood, marriage or adoption, then that exempt division creates a lot or lots for the purposes of this definition. A grant of bona fide security interest in an entire lot that has been exempted from the definition under this paragraph, 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 Ordinance.

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

---

- 1.2.5 In determining the number of dwelling units in a structure, the provisions regarding the determination of the number of lots shall apply, including exemptions from the definition of a subdivision of land.
- 1.2.6 Leased dwelling units meeting any part of the definition of subdivision above are subject to the requirements of this Ordinance.

**SECTION 2 – AUTHORITY, ADMINISTRATION AND APPEALS**

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**2.1 Authority**

- 2.1.1 This Ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A Part 2, Section 1 of the Maine Constitution and 30-A MRSA, §3001. These standards have been prepared in accordance with the provisions of 30-A MRSA, §4403.
- 2.1.2 This Ordinance shall be known and may be cited as “Town of Vassalboro Subdivision Ordinance.”
- 2.1.3 The Planning Board of the Town of Vassalboro, hereinafter called the “Board”, shall administer this Ordinance.

**2.2 Amendments to this Ordinance**

- 2.2.1 An amendment to this Ordinance may be initiated by:
  - A. The Planning Board provided a majority of the Board has so voted;
  - B. Request by the Board of Selectmen; or
  - C. Written petition of a number of voters equal to at least 10% of the number of votes cast in the Town at the last gubernatorial election.
- 2.2.2 The Board shall hold a public hearing on the proposed amendment. Notification of the hearing shall be posted and advertised in a newspaper of general circulation in the Town at least 7 days prior to the hearing.
- 2.2.3 An amendment to this Ordinance may be adopted by a majority vote of the Town Meeting.

**2.3 Interpretation, Conflict and Severability**

- 2.3.1 The provisions of this Ordinance shall be construed as minimum requirements. More stringent provisions may be required if it is demonstrated that such are necessary to promote the public health, safety and welfare. Where the conditions imposed by any provisions of this Ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance or any other applicable law, ordinance, or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall govern.
- 2.3.2 The provisions of this Ordinance are separable. If any portion of this Ordinance is declared by the courts to be invalid, the decision shall not affect the validity of the remaining portions of this Ordinance.
- 2.3.3 This Ordinance shall not in any way impair or remove the necessity of compliance with any other applicable rule, ordinance, regulation, bylaw, permit, or provision of law. Where this Ordinance imposes a greater restriction upon the use of land or structures, the provisions of this Ordinance shall control.

**2.4 Effective Date and Repeal of Prior Ordinances**

This Ordinance becomes effective on the date it is adopted by Town Meeting. This Ordinance repeals and replaces any municipal ordinance previously enacted to control the development of subdivisions in the Town of Vassalboro.

**2.5** ***Violations and Enforcement***

- 2.5.1 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 this Ordinance.
- 2.5.2 A person shall not convey, offer or agree to convey any land in a subdivision which has not been approved by the Board and recorded in the Registry of Deeds.
- 2.5.3 A person shall not sell, lease or otherwise convey any land in an approved subdivision which is not shown on the plan as a separate lot.
- 2.5.4 No public utility, water district, sanitary district 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.
- 2.5.5 Development of a subdivision without Board approval shall be a violation of law. Development includes grading or construction of roads, grading of land or lots, or construction of buildings which require a plan approved as provided in this Ordinance and recorded in the Registry of Deeds.
- 2.5.6 *Default.* Any developer who (1) fails to perform any required improvements in accordance with any timetable established at the time of final plan approval, (2) completes required improvements in a manner which, although timely, is not acceptable to the Town, or (3) maintains a situation that is hazardous to the public health and safety, shall be deemed in default. In addition, a developer shall be deemed in default if any required improvement is not completed in accordance with the plan and all applicable regulations before the expiration date of any performance guarantees tendered by the developer to the Town with respect to required improvements. The Town will not be required to initiate action to exercise its rights under any financial performance guarantee in order to declare a developer in default. For purposes of interpreting this paragraph, “hazards to public health and safety” shall include, but not be limited to, inadequate drainage, stormwater management, or erosion and sedimentation control measures.
- 2.5.7 No lot in a subdivision may be sold, leased, or otherwise conveyed before the street upon which the lot fronts is completed in accordance with final plan approval and this Ordinance up to and including the entire frontage of the lot. No unit in a multifamily development shall be occupied before the street upon which the unit is accessed is completed in accordance with final plan approval and this Ordinance.
- 2.5.8 Violations of the above provisions of this section are a nuisance and shall be punished in accordance with the provisions of 30-A MRSA, §4452.

**2.6** ***Appeals***

An aggrieved party may appeal any decision of the Board under this Ordinance to the Superior Court within 30 days from the date the Board issues a written notice of its decision.

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**SECTION 3 – DEFINITIONS**

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**3.1 Construction of Language**

In the interpretation and enforcement of this Ordinance, all words other than those specifically defined in the Ordinance shall have the meaning implied by their context in the Ordinance or their ordinarily accepted meaning.

The present tense includes the future tense, the singular number includes the plural, and plural numbers include the singular.

The words "shall," "will" and "must" are mandatory; the word "may" is permissive.

The word "lot" includes the word "parcel".

The word "structure" includes the word "building".

The word "Town" means the Town of Vassalboro, Maine.

The term "Board" means the Vassalboro Planning Board, unless a different board is specifically mentioned.

**3.2 Definition of Terms**

In this Ordinance the following terms shall have the following meanings:

**Abutter:** The owner of any property with one or more common boundaries, or across the street or stream from, the property involved in an application or appeal.

**Agriculture:** The production, keeping or maintenance for sale or lease, of plants and/or animals including but not limited to: forages and sod crops; grains and seed crops; dairy animals and dairy products; poultry and poultry products; livestock; fruits and vegetables; and ornamental and greenhouse products. "Agriculture" does not include forest management and timber harvesting activities.

**Agricultural Products:** Those plants and animals and their products that are useful to humans and includes, but is not limited to, forages and sod crops, grains and feed crops, dairy and dairy products, poultry and poultry products, bees and bees' products, livestock and livestock products and fruits, berries, vegetables, flowers, seeds, grasses and other similar products, or any other plant, animal or plant or animal products that supply humans with food, feed, fiber or fur. "Agricultural products" does not include trees grown and harvested for forest products.

**Applicant:** The person or persons applying for subdivision approval under this Ordinance.

**Basement:** Any portion of a structure with a floor-to-ceiling height of 6 feet or more and having more than 50% of its volume below the existing ground level.

**Buffer Area:** A part of a property or an entire property, which is not built upon and is specifically intended to separate and thus minimize the effects of a land use activity (e.g. noise, dust, visibility, glare, etc.) on adjacent properties or on sensitive natural resources.

**Certified Soil Scientist:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Commercial:** The use of lands, buildings, or structures, the intent and result of which activity is the production of income from the buying and selling of goods and/or services, exclusive of rental of residential buildings and/or dwelling units.

**Common Open Space:** Land within or related to a subdivision, not individually owned or within an individual lot, which is designed and intended for the common use or enjoyment by the residents of the development or general public. It may include complementary structures and improvements, typically used for maintenance and operation of the open space, such as for outdoor recreation.

**Complete Application:** An application shall be considered complete upon submission of the required fee and all information required by this Ordinance unless waived, after the applicant's written request, by a vote by the Board. The Board shall issue a written statement to the applicant upon its determination that an application is complete.

**Complete Substantial Construction:** The completion of a portion of the improvements which represents no less than 30% of the costs of the proposed improvements within a subdivision. If the subdivision is to consist of individual lots to be sold or leased by the subdivider, the cost of construction of buildings on those lots shall not be

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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included. If the subdivision is a multifamily development, or if the applicant proposes to construct the buildings within the subdivision, the cost of building construction shall be included in the total costs of proposed improvements.

**Conservation Easement:** A nonpossessory interest in real property imposing limitations or affirmative obligations, the purposes of which include retaining or protecting natural, scenic or open space values of real property; assuring its availability for agricultural, forest, recreational or open space use; protecting natural resources; or maintaining air or water quality.

**Density:** The number of dwelling units per acre of land.

**Development:** A change in land use involving alteration of the land, water or vegetation, or the addition or alteration of structures or other man-made construction.

**Direct Watershed of a Great Pond:** That portion of the watershed which drains directly to the great pond without first passing through an upstream great pond. For the purposes of this Ordinance, the watershed boundaries shall be as depicted in the drainage divide data layer provided by the Maine Office of GIS. Due to the scale of the map there may be small inaccuracies in the delineation of the watershed boundary. Where there is a dispute as to exact location of a watershed boundary, the Board or its designee and the applicant shall conduct an on-site investigation to determine where the drainage divide lies. If the Board and the applicant cannot agree on the location of the drainage divide based on the on-site investigation, the burden of proof shall lie with the applicant to provide the Board with information from a professional land surveyor showing where the drainage divide lies.

**Drinking Water Standards:** Thresholds for contaminants set by the Maine Department of Health and Human Services. Standards have been established for contaminants which pose a health threat (“primary drinking water standards”) and those which pose an aesthetic concern (“secondary drinking water standards”).

**Driveway:** A vehicular accessway serving two lots or less.

**Dwelling Unit:** A room or suite of rooms used as a habitation which is separate from other such rooms or suites of rooms, and which contains independent living, cooking, and sleeping facilities; includes single family houses, and the units in a duplex, apartment house, multifamily dwellings, and residential condominiums and time-share units.

**Engineered Subsurface Waste Water 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. Any engineered system must be approved by the Maine Department of Health and Human Services.

**Farmland:** A parcel consisting of 5 or more acres of land that is either: (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 the production of agricultural products as defined in 7 MRSA, §152, sub-§2.

**Final Plan:** The final drawings on which the applicant’s plan of subdivision are presented to the Board for approval and which, if approved, must be recorded at the Registry of Deeds.

**Flood, 100-Year:** The highest level of flood that, on the average, has a 1% chance of occurring in any given year.

**Floodway:** The channel of a river or other watercourse and adjacent land areas that must be reserved in order to discharge the 100-year flood without cumulatively increasing the water surface elevation by more than one foot in height.

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

**Groundwater:** The water that is found beneath the earth's surface recharged from rain infiltration. Groundwater moves slowly, finding its way from pore space to pore space in the subsurface soils and rocks; but it may surface as seeps and springs when intercepted by an excavation or slope cut.

**High Intensity Soil Survey:** A map prepared by a certified soil scientist, identifying the soil types down to 1/8 acre or less at a scale equivalent to the subdivision plan submitted. The soils shall be identified in accordance with the National Cooperative Soil Survey. The map shall show the location of all test pits used to identify the soils, and shall be accompanied by a log of each sample point identifying the textural classification and the depth to a limiting factor such as seasonal high water table or bedrock at that location.

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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**Level of Service:** A description of the operating conditions a driver will experience while traveling on a particular street or highway calculated in accordance with the provisions of the *Highway Capacity Manual*, most recent edition, published by the National Academy of Sciences, Transportation Research Board. There are 6 levels of service ranging from Level of Service A with free traffic flow and no delays, to Level of Service F with forced flow and congestion resulting in complete failure of the roadway.

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

**Medium Intensity Soil Survey:** The *Soil Survey of Kennebec County, Maine*, published by the USDA, Soil Conservation Service, is recognized as a medium intensity soil survey.

**Multifamily Development:** A subdivision that contains 3 or more dwelling units on land in common ownership, such as apartment buildings, condominiums or mobile home parks.

**New Structure or Structures:** Includes any structure for which construction began on or after September 23, 1988. The area included in the expansion of an existing structure is deemed to be a new structure.

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

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

**Principal Structure:** Any building or structure in which the main use of the premises takes place.

**Professional Engineer:** A professional engineer registered in the State of Maine.

**Professional Land Surveyor:** As registered, licensed and/or certified by the appropriate licensing and registration boards in the State of Maine.

**Public Improvements:** The term shall include all roads; fire protection structures and ponds; any structure or land proposed to be dedicated to the Town; any land or structure which is offered as an easement to the Town; and, all stormwater drainage structures designed to allow water to flow outside the property or the subdivision.

**Public Water System:** There are 2 basic types: (a) a "community water system" which serves at least 15 service connections used by year-round residents or regularly serves at least 25 year-round residents; and (b) a "non-community water system" that is not a "community water system", but that serves at least 25 of the same persons for 6 months or more per year and may include, but is not limited to, a school, factory, industrial park or office building, or a water system that serves at least 25 persons, but not necessarily the same persons, for at least 60 days per year and may include, but is not limited to, a highway rest stop, seasonal restaurant, seasonal motel, golf course, park or campground. A bottled water company is a non-community water system.

**Recording Plan:** An original of the final plan, suitable for recording at the Registry of Deeds and which needs to show only information relevant to the transfer of an interest in the property, and which does not show other information presented on the plan such as sewer and water line locations and sizes, culverts, and building lines.

**River, Stream or Brook:** A channel between defined banks that is created by the action of surface water and has two or more of the following characteristics:

A. It is depicted as a solid or broken blue line on the most recent edition of the U.S. Geological Survey 7.5-minute series topographic map or, if that is not available, a 15-minute series topographic map.

B. It contains or is known to contain flowing water continuously for a period of at least 6 months of the year in most years.

C. The channel bed is primarily composed of mineral material such as sand and gravel, parent material or bedrock that has been deposited or scoured by water.

D. The channel contains aquatic animals such as fish, aquatic insects or mollusks in the water or, if no surface water is present, within the stream bed.

E. The channel contains aquatic vegetation and is essentially devoid of upland vegetation.

*"River, stream or brook" does not mean a ditch or other drainage way constructed, or constructed and maintained, solely for the purpose of draining stormwater or a grassy swale.*

**Runoff:** The part of precipitation excluding evaporation and infiltration that becomes a discharge of stormwater.

**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.

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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**Street:** Public and private ways such as alleys, avenues, highways, roads, and other rights-of-way, as well as areas on subdivision plans designated as rights-of-way for vehicular access other than driveways.

**Stormwater:** The part of precipitation, including runoff from rain or melting ice and snow that flows across the ground surface or in drainage ways.

**Subdivision:** The term shall be defined as in 30-A, MRSA, §4401, sub-§4, with the modifications as described in Section 1.2 Applicability of this Ordinance.

**Subdivision, Major:** Any subdivision containing more than 4 lots or dwelling units, or any subdivision containing a proposed street.

**Subdivision, Minor:** Any subdivision containing 4 lots or dwelling units or fewer, and in which no street is proposed to be constructed.

**Substantial Construction:** (See “Complete Substantial Construction”)

**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.

**Vegetation:** All live trees, shrubs, and other plants.

**Vernal pool:** An area exhibiting pooling, vegetation and even small creatures for a limited time of year, usually during the spring flooding, and drying up over the course of the summer.

**Wetland:** Areas which are inundated or saturated by surface or groundwater 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 which are not part of a great pond, river, stream, or brook.

Freshwater wetlands may contain small stream channels or inclusions of land that do not conform to the above criteria. This also includes forested wetlands.

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**SECTION 4 - ADMINISTRATIVE PROCEDURES AND FEES**

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**4.1 Agenda**

The Code Enforcement Officer (CEO) in consultation with the Board Chair shall prepare a written agenda for each regularly scheduled meeting. The agenda shall be prepared no less than one week prior to the meeting, distributed to Board members and any applicants appearing on the agenda, and posted at the Town Office. Applicants shall request to be placed on the Board's agenda at least 14 days in advance of a regularly scheduled meeting by contacting the CEO. 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. However, the Board shall take no action on any application not appearing on the written agenda.

**4.2 Establishment of File for Subdivision**

The CEO shall establish a file for every proposed subdivision. The file shall be a permanent record of all matters concerning the subdivision, including all correspondence, submissions, proceedings and minutes.

**4.3 Joint Meetings with Adjacent Municipalities**

If any portion of a subdivision crosses town boundaries, all meetings and hearings to review a subdivision application, including an application for an amendment or revision to a subdivision, must be held jointly by the reviewing authorities from each town. The reviewing authorities in each town, upon written agreement, may waive the requirement under this subsection for any joint meeting or hearing.

**4.4 Application Fee**

An application for subdivision approval shall include payment of a non-refundable permit fee as set by the Board of Selectmen. The application shall not be considered complete until this fee is paid.

**4.5 Escrow Account for Review by Outside Experts<sup>1</sup>**

- 4.5.1 The Board may require that the applicant deposit with the Town, funds sufficient to reimburse the Town for all reasonable costs for hiring independent consulting services to review engineering and other technical submissions associated with the application and to ensure compliance with this Ordinance.
- 4.5.2 If the Board requires an escrow account, the applicant shall pay an escrow fee of \$250 per lot or dwelling unit, to be deposited in a special escrow account designated for that subdivision application. If the balance in this special account is drawn down by 75%, the Board shall notify the applicant, and require that the balance be brought back up to the original deposit amount. The Board shall continue to notify the applicant and require a deposit as necessary whenever the balance of the escrow account is drawn down by 75% of the original deposit.
- 4.5.3 In the event that the amount held in escrow is more than the amount of actual invoicing at the conclusion of the project, the remaining balance shall be promptly refunded to the applicant.

**4.6 Transfer of Approved Subdivision Permits**

When an approved subdivision permit is transferred to a new owner or lessee of the property for which the permit was granted, the new owner or lessee must appear before the Board with a signed statement that he/she will adhere to all of the conditions and specifications of the approved final plan. This provision shall not supersede the expiration of approved subdivision permits (Section 5.4.6 Subdivision Approval Expiration).

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<sup>1</sup> Also see Section 11.6.1 regarding inspections of required improvements.

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**SECTION 5 – APPLICATION REVIEW PROCESS**

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**5.1 Classification as Minor or Major Subdivision**

5.1.1 *Classification.* The CEO shall classify each project as a major or minor subdivision.

- A. A Minor Subdivision is any subdivision containing 4 lots or dwelling units or fewer, and in which no street is proposed to be constructed.
- B. A Major Subdivision is defined as any subdivision containing more than 4 lots or dwelling units, or any subdivision containing a proposed street.

5.1.2 Upon receipt of the formal application (preliminary plan or final plan) the CEO shall determine if the classification is still correct and may reclassify the application if the scope has changed.

**5.2 Minor Subdivisions**

5.2.1 *Two-Step Process.* Minor subdivisions require a two-step application process consisting of: (1) sketch plan review by the CEO; and (2) final plan review by the Planning Board. Applicants are also encouraged to consult with the CEO prior to the submission of a sketch plan to become familiar with the review procedures, submission requirements, and approval criteria.

5.2.2 *Sketch Plan Review Process*

- A. *Purpose.* The purpose of sketch plan review is for the applicant to present general information regarding the proposed subdivision to the CEO, and to receive the CEO's comments prior to undertaking the costs associated with the development of the final plan. Sketch plan review shall not be considered the initiation of the review process for the purposes of bringing the plan under protection of 1 MRSA, §302.
- B. *Sketch Plan Review Meeting with the CEO*
  - 1. *Appointment Required.* The applicant shall make an appointment with the CEO for the sketch plan review meeting.
  - 2. *Meeting Procedure*
    - a. The applicant shall present the sketch plan application (See Section 6.1 Sketch Plan Submissions) and make a verbal presentation regarding the site and the proposed subdivision.
    - b. The CEO may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated into the final plan.
    - c. *Waivers.* Requests for waivers may be discussed, but formal acceptance of any waivers shall not occur until the Board has an opportunity to review the final plan (See Section 9 Waivers).
  - 3. *Site Inspection.* The CEO may visit the site to observe existing conditions, generally confirm the information submitted, and assess the development proposal. Prior to the site inspection, the applicant shall place "flagging" at lot corners. If the proposed project includes buildings, the approximate corners of building footprints shall be "flagged."
  - 4. *CEO Authorization to Submit Final Plan.* The CEO shall authorize the submission of the final plan application when sketch plan review is complete. (See Section 6 for submission requirements)

5.2.3 *Final Plan Review Process*

- A. The applicant shall submit a final plan within 6 months after the CEO has authorized the submission. The CEO may, upon failure to meet the 6 month deadline, require the application to return to the sketch plan review phase. Each time that an application is returned to the sketch plan phase, the applicant shall pay the required application fees.

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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- B. *Consistency with Sketch Plan.* The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the CEO.
- C. *Final Plan Submission and Public Notice Requirements*
1. *CEO.* Within 3 business days of receipt of a final plan application, the CEO shall issue a dated receipt to the applicant, and notify the clerk and the review authority of neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
  2. *Applicant.* Upon submission of the final plan to the CEO, the applicant shall notify by return receipt mail all owners of abutting property and/or property owners within 200 feet of the subdivision property line that an application for subdivision approval has been submitted. The notification shall specify the location of the proposed subdivision and include a general description of the project. This notice shall also include notice for the Board meeting where the final plan will be considered. The applicant shall also notify any supplier of a “public drinking water system” (as defined) when the subdivision is located on parcels wholly or partially within the “source water protection area” as mapped by the Maine Drinking Water Program. Return receipts will be required to verify notification of all of the notified property owners and public drinking water system suppliers.
- D. *Determination of Completeness.* Within 30 days of the receipt of a final plan application, the CEO shall determine if the submission is complete, and shall notify the applicant in writing of this finding. If the CEO determines the application is incomplete, the notice shall specify the additional materials required, and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted. These steps, except the notification requirements, shall be repeated until the application is complete. A determination of completeness under this subsection does not preclude the Board from requiring additional materials necessary for the review of the project.
- E. *Review by Others.* Upon a determination that the application for a final plan is complete, the CEO shall inform the applicant of the requirements for notification of other town officials and entities, such as the Town Manager, Road Foreman, Fire Chief, public water suppliers, etc.
- F. *Planning Board Meeting to Review the Final Plan*
1. Upon a determination that the final plan application is complete, the CEO shall schedule, and provide the required public notice for, a meeting of the Board to review the application. The applicant or his/her authorized agent must be present at all Board meetings and/or hearings where the application is to be considered by the Board.
  2. All final plan submission requirements shall be submitted to the CEO at the Town Office at least 14 days prior to the meeting at which the applicant wishes to be heard by the Board.
  3. *Public Hearing*
    - a. If the Board decides to hold a public hearing, the hearing must be held within 30 days after the determination that a complete application has been submitted or within any other time limit that is mutually agreed upon by the Board and the applicant. The purpose of the hearing is to allow the applicant and affected property owners to provide information as part of the record the Board will use in considering its action on the application.
    - b. *Public Notice Requirements*
      - i. *CEO.* The CEO shall notify the applicant and publish the time, date, and place of the hearing at least 2 times; the date of the first publication to be at least 7 days prior to the hearing in a newspaper of area wide circulation.
      - ii. *Applicant.* The applicant shall follow the notification requirements in Section 5.2.3,C.2, except this notice shall be made at least 7 days prior to the hearing.
  4. *Planning Board Decision on the Final Plan Application*
    - a. The Board shall, within 30 days from the public hearing or within 60 days of determining a complete application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, make findings of fact and conclusions of law on the application, and approve, approve with conditions, or deny the final plan application. The Board shall specify in writing its findings of fact, conclusions of law, and reasons for any conditions or denial.

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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- b. The Board shall notify the applicant of the action of the Board including the findings of fact, conclusions of law, and any conditions of approval or reasons for denial. This requirement can be met through the distribution of minutes of the meeting or an approval letter.
- c. All time limits within this section may be extended by mutual agreement of the applicant and Board.

### 5.2.4 *Final Approval and Filing* (See Section 5.4)

## **5.3 Major Subdivisions**

5.3.1 *Three-Step Process.* Major subdivisions require a 3-step application process consisting of: (1) sketch plan review; (2) preliminary plan review; and (3) final plan review. Each step requires the Board consideration.

5.3.2 *Pre-application Consultation.* Applicants are encouraged to consult with the CEO prior to submission of a sketch plan to become familiar with the review procedures, submission requirements and approval criteria. The applicant should present the proposed subdivision on copies of the property tax map and a topographic map, to show the location and general characteristics of the site. The applicability of any state or municipal regulations, and any potential waivers (See Section 9 Waivers) may also be discussed.

### 5.3.3 *Sketch Plan Review Process*

- A. *Purpose.* The purpose of sketch plan review is for the applicant to present general information regarding the proposed subdivision to the Board, and to receive the Board's comments prior to the expenditure of substantial sums of money on surveying, soils identification, and engineering by the applicant. Sketch plan review shall not be considered the initiation of the review process for the purposes of bringing the plan under protection of 1 MRSA §302.
- B. *Sketch Plan Review Meeting with the Board*
  - 1. Upon receipt of a completed sketch plan application, the CEO shall schedule, and provide the required public notice for, a meeting of the Board to review the application. The CEO shall also notify the clerk and the review authority of neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
  - 2. All sketch plan application requirements (See Section 7.1) shall be submitted to the CEO at least 14 days prior to the sketch plan review meeting with the Board.
  - 3. The applicant, or his/her representative, shall present the sketch plan to the Board. Failure to attend the meeting may result in a delay of the Board's review until the next meeting the applicant attends.
  - 4. *Public Notice, Applicant.* Upon submission of the sketch plan application to the CEO, the applicant shall notify by return receipt mail all owners of abutting property and/or property owners within 200 feet of the subdivision property line that an application for subdivision approval has been submitted, specifying the location of the proposed subdivision and including a general description of the project. This notice shall also include notice for the meeting where the application will be considered by the Board. The applicant shall also notify any supplier of a "public drinking water system" (as defined) when the subdivision is located on parcels wholly or partially within the "source water protection area" as mapped by the Maine Drinking Water Program. Return receipts will be required to verify notification of all of the notified property owners and public drinking water system suppliers.
  - 5. *Meeting Procedure*
    - a. The applicant shall present the sketch plan and make a verbal presentation regarding the proposal.
    - b. The Board and CEO may ask questions, point out potential problems or issues for future discussions, and make suggestions to be incorporated into the preliminary plan. Substantive, lengthy discussions about compliance with review standards shall be postponed until the subsequent review of the full application.
    - c. *Waivers.* Requests for waivers may be discussed, but formal acceptance of any waivers shall not occur until the Board has an opportunity to review the preliminary plan.

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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- C. *Site Inspection.* The CEO and/or Board may choose to visit the site to observe existing conditions, generally confirm the information submitted, and assess the development proposal. The Board may decide not to hold, or postpone, a site inspection when the site is snow covered. If the Board is to conduct the site inspection, written permission for members of the Board and the interested public to enter the property will be necessary. The site inspection may be conducted during preliminary plan and/or final plan review.
1. *Public Notice.*
    - a. *CEO.* If the Board decides to conduct a site inspection, notice of the site inspection shall be published in a newspaper of general circulation at least 7 days prior to the inspection.
    - b. *Applicant.* The applicant shall notify property owners and others as specified in Section 5.3.3, B.4, except that this notice shall be made at least 7 days prior to the site inspection.
  2. Prior to the site inspection, the applicant shall place "flagging" at the centerline of any proposed streets, and at the approximate intersections of the street centerlines and lot corners. If the proposed project includes buildings, the approximate corners of building footprints shall be "flagged". The applicant shall provide a copy of the sketch plan (on an 8½ by 11 inch or an 11 by 17 inch sheet) of the project for each member of the Board and the CEO.
  3. *Minutes.* Minutes shall be taken of the site inspection in the same manner as for regular meetings.
- D. *Board Authorization to Submit Preliminary Plan Application.* The Board shall authorize the submission of the preliminary plan application when sketch plan review is complete.

### 5.3.4 Preliminary Plan Process

- A. *Timeframe.* The applicant shall submit the preliminary plan within 6 months after the Board has authorized its submission. The Board may, upon failure to meet the 6 month deadline, require the applicant to return to the sketch plan phase, including the payment of application fees.
- B. *Consistency with the Sketch Plan.* The preliminary plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.
- C. *Preliminary Plan Submission and Public Notice Requirements*
1. Within 3 business days of receipt of a preliminary plan application, the CEO shall issue a dated receipt to the applicant, and notify the clerk and the review authority of neighboring municipalities if any portion of the subdivision abuts or crosses the municipal boundary.
  2. *Public Notice, Applicant.* Upon submission of the preliminary plan to the CEO, the applicant shall notify property owners and others as specified in Section 5.3.3, B.4.
- D. *Determination of Completeness.* Within 30 days of the receipt of a preliminary plan application, the CEO shall determine if the submission is complete, and shall notify the applicant in writing of this finding. If the CEO determines the application is incomplete, the notice shall specify the additional materials required and shall advise the applicant that the application will not be considered by the Board until the additional information is submitted. A determination of completeness under this subsection does not preclude the Board from requiring additional materials necessary for review of the project.
- E. *Review by Others.* Upon determination that a complete application has been submitted, the CEO shall inform the applicant of the requirements for notification of other town officials and entities, such as the Town Manager, Road Foreman, Fire Chief, School Superintendent, public water suppliers, etc..
- F. *Planning Board Meeting(s) to Review the Preliminary Plan Application*
1. Upon a determination that the preliminary plan application is complete, the CEO shall schedule, and provide the required public notice for, a meeting of the Board to review the application.
  2. All preliminary plan submission requirements shall be submitted to the CEO at the Town Office at least 14 days prior to the meeting at which the applicant wishes to be heard by the Board.
  3. The applicant, or a representative, shall present the preliminary plan to the Board. Failure to attend the meeting may result in a delay of the Board's review until the next meeting the applicant attends.
  4. *Public Hearing*
    - a. If the Board decides to hold a public hearing, the hearing must be held within 30 days after the determination that a complete application has been submitted or within any other time limit that is mutually agreed upon by the Board and applicant. The purpose of the hearing is to allow the

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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applicant and affected property owners to provide information as part of the record that the Board will use in considering its action on the application.

b. *Public Notice Requirements*

i. *CEO.* The CEO shall notify the applicant and publish the time, date, and place of the hearing at least 2 times; the date of the first publication to be at least 7 days prior to the hearing in a newspaper of area wide circulation.

ii. *Applicant.* The applicant shall notify property owners and others as specified in Section 5.3.3, B.4, excepting that this notice shall be made at least 7 days prior to the public hearing.

G. *Planning Board Decision on the Preliminary Plan Application*

1. Within 30 days after the public hearing or within 60 days of determining a complete preliminary plan application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact and conclusions on the application, and approve, approve with conditions, or deny the preliminary plan application. The Board shall specify in writing its findings of facts, conclusions, and reasons for any conditions or denial.
2. If the Board decides the preliminary plan must be revised, the applicant shall have 6 months to return with the required revisions. If a revised plan is not submitted within this timeframe, the Board may grant an extension of up to 3 months or require that the application return to sketch plan phase. Application fees shall not be refunded. New fees will be required for each phase of the review repeated.
3. When granting approval to a preliminary plan application, the Board shall state the conditions of such approval, if any, with respect to:
  - a. The specific changes which it will require in the final plan.
  - b. The character and extent of required improvements for which waivers have been requested and that the Board finds may be waived without jeopardy to public health, safety and general welfare.
  - c. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan.
4. 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 preliminary plan design as a guide to the preparation of the final plan. The final plan shall be submitted for approval by the Board upon fulfillment of the requirements of this Ordinance and the conditions of the preliminary plan approval, if any. Prior to approval of the final plan, the Board may require additional information and changes in the plan as a result of further study of the proposed subdivision or as a result of new information received.

### 5.3.5 *Final Plan Application Process*

- A. *Timeframe.* The applicant shall submit the final plan within 6 months after the Board has approved the preliminary plan. If the final plan is not submitted within 6 months, the Board may require that the applicant repeat preliminary plan review, including the payment of required application fees. If an applicant cannot submit the final plan within 6 months due to delays caused by other regulatory bodies, or other reasons, the applicant may make a written request for an extension prior to the 6-month deadline. The Board may grant an extension if the applicant has made due progress in preparation of the final plan and/or in pursuing other agency approvals. The Board shall also take into consideration any amendments made to local ordinances or regulations that might impact the project.
- B. *Plan Consistency.* The final plan shall be consistent with the preliminary plan, plus any requirements made by the Board.
- C. *Review Process*
  1. The final plan review process shall follow the same steps as required for preliminary plan review, including Sections 5.3.4, C, D, E, and F.
  2. *Planning Board Decision on the Final Plan Application*
    - a. Within 30 days from the public hearing, or within 60 days of determining a complete final plan application has been received, if no hearing is held, or within another time limit as may be otherwise mutually agreed to by the Board and the applicant, the Board shall make findings of fact

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## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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and conclusions on the application, and approve, approve with conditions, or deny the final plan application. The Board shall specify in writing its findings of fact, conclusions, and reasons for any conditions or denial.

- b. *Submission of Revisions.* If the Board decides the final plan must be revised, the applicant shall have 6 months to return to the Board with the required revisions. If an applicant cannot comply with this section, the Board may grant an extension in accordance with Subsection 5.3.5,A above.

### ***5.4 Final Approval and Filing for Major and Minor Subdivisions***

- 5.4.1 No plan shall be approved by the Board as long as the applicant is in violation of the provisions of a previously approved subdivision plan within the Town.
- 5.4.2 Upon findings of fact and a determination that all standards in 30-A, MRSA, §4404, and this Ordinance have been met, the Board shall vote to approve the subdivision and sign the final plan. The Board shall specify in writing its findings of fact, conclusions of law, and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board for its permanent records. Copies of the signed plan shall be forwarded to the Tax Assessor and the CEO. Any subdivision not recorded in the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void.
- 5.4.3 ***Phasing of Development.*** At the time the Board grants final plan approval, it may permit the plan to be divided into two or more separate and distinct phases subject to any conditions it deems necessary to ensure the orderly development of the subdivision. If any municipal or quasi-municipal department head informs the Board their department or district does not have adequate capacity to service the subdivision, the Board may require the plan to be divided into phases subject to any conditions it deems necessary for orderly planning, financing and provision of public services to the subdivision. The applicant shall provide a separate performance guarantee, in a form and amount acceptable to the Board, for the completion of the infrastructure of each phase. In all cases, final approval of lots in subsequent phases shall be given only upon satisfactory completion of all requirements pertaining to previous phases.
- 5.4.4 No changes, erasures, modifications, or revisions shall be made to any final plan after Board approval and endorsement in writing on the plan, unless a revised plan is first submitted and the Board approves any modifications in accordance with Section 10. The Board shall make findings and conclusions of law that the revised plan meets the criteria of 30-A, MRSA, §4404, and the standards of this Ordinance. If a 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 Registry of Deeds.
- 5.4.5 Board approval of a subdivision plan shall not constitute or be evidence of any acceptance by the Town of any street, easement, or other open space shown on such plan. When a park, playground, or other recreation area is shown on the plan to be dedicated to the Town, 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. The Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- 5.4.6 ***Subdivision Approval Expiration.*** Except in the case of a phased development plan, failure to complete substantial construction (see definitions) of the subdivision within 3 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 placed in the Registry of Deeds to that effect.

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**SECTION 6 - MINOR SUBDIVISION SUBMISSION REQUIREMENTS**

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***6.1 Sketch Plan Submissions***

- 6.1.1 The sketch plan shall show, in simple form, the proposed layout of the subdivision. The intent of the sketch plan is to provide the applicant and the CEO with a flexible, low-cost means to understanding the site, and to create a development plan that reflects the site's opportunities and constraints in accordance with the requirements of this Ordinance.
- 6.1.2 The sketch plan shall contain, at a minimum, 2 copies of the following information:
- A. A completed sketch plan application form for a minor subdivision.
  - B. A description of existing conditions of the site - the number and size of lots, constraints and opportunities.
  - C. Name, addresses, and phone numbers of the record owner, the applicant, preparer, and any consultants.
  - D. Evidence of right, title, or interest in the property.
  - E. Evidence of payment of the applicable fee and escrow deposit, if required.
  - F. A copy of a portion of the U.S.G.S. topographic map (7.5 min. quad.) of the area showing the boundaries of the proposed subdivision.
  - G. A copy of that portion of the Kennebec County Medium Intensity Soil Survey covering the proposed subdivision with the boundaries of the proposed subdivision shown.
  - H. A plan of the parcel, with an accurate scale, showing at a minimum the information listed below.<sup>2</sup>
    - 1. Name(s) of the applicant and owner of the parcel.
    - 2. North arrow, date and map scale.
    - 3. Boundary and lot lines of the subdivision.
    - 4. Approximate location, width and purpose of easements or restrictions, if applicable.
    - 5. Streets on and adjacent to the tract.
    - 6. Approximate location and size of existing utilities on and adjacent to the tract.
    - 7. Existing buildings, structures, or other improvements on the site.
    - 8. The major natural features of the site, approximated by the applicant, including wetlands, streams, ponds, floodplains, groundwater aquifers, tree lines, significant wildlife habitat and fisheries and other important natural features.

***6.2 Final Plan Submissions***

- 6.2.1 *Consistency with the Sketch Plan.* The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the CEO.
- 6.2.2 *Mandatory Submissions.* The following items shall be submitted as part of the final plan application, unless the applicant is granted a waiver from the submission requirement (see Section 9 Waivers). The Board may require additional information, as necessary, to determine if the criteria of this Ordinance are met (See Section 8 Review Criteria and Standards). Seven copies (unless otherwise specified by the CEO) of the following shall be submitted:
- A. A Completed Application, the Application Fee, Establishment of Escrow Account (if applicable)
  - B. *Location Map.* The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to adjacent properties, and to allow the Board to locate the subdivision within the town. The location map shall show:
    - 1. Existing land uses and subdivisions in the proximity of the proposed subdivision.
    - 2. Locations and names of existing and proposed streets, if applicable.

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<sup>2</sup> *If the applicant decides to survey the property as part of the sketch plan, the applicant may want to obtain the required electronic data while the surveyor is on site (See electronic submission requirements for a final plan review)*

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## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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3. Boundaries and designations of shoreland zoning districts, if applicable.
  4. An outline of the proposed subdivision and any remaining portion of the owner's property if the final plan submitted covers only a portion of the owner's entire contiguous holdings.
- C. *Final Plan.* The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can be easily read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of 2 inches outside of the borderline on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and 3 full sized paper copies of all the final plan sheets and any supporting documents shall be submitted. The original reproducible plan shall be embossed with the seal of the professional land surveyor and be signed by that individual. In addition, one copy of the plan shall be reduced to a size of 8½ by 11 inches or 11 by 17 inches for forwarding to Board members. The following information shall be included on the plan:
1. Proposed name of the subdivision, or identifying title, and the name of the municipality(ies) in which it is located, plus tax assessor's map and lot numbers.
  2. Date the plan was prepared, magnetic and true north point, and graphic map scale.
  3. Names and addresses of record owner, applicant, and all those involved in preparing the plan.
  4. Deed references, and existing and proposed deed restrictions, covenants, easements, rights-of-way, or other encumbrances or conditions affecting the property. Include any public rights for physical or visual access to the shoreline of a water body.
  5. Names and addresses of all abutters, including any property owners directly across any existing road from the subdivision. Include property lines, tax map and lot numbers, and deed references.
  6. Standard boundary survey and internal development survey with complete descriptive data by bearings and distances, made by a professional land surveyor. The entire parcel shall be shown, including all contiguous land in common ownership within the last 5 years, as required by Title 30-A MRSA §4401. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.<sup>3</sup>
  7. Location of all monuments, including monuments to be placed at the corners of the parcel and each lot, and the type of monument (granite, concrete, iron pin, or drilled hole in ledge).
  8. Number of acres within the subdivision, and proposed lot numbers and acreages for each lot.
  9. Contour lines at the interval specified by the CEO, showing elevations relative to mean sea level.
  10. Location and boundaries of all water bodies and wetlands, including vernal pools, and the location of any shoreland zoning affecting the tract. If any portion of the subdivision is located in the direct watershed of a great pond, the boundaries of the direct watershed and the name of the great pond.
  11. Location and type of vegetative cover, unusually large trees and other essential existing physical features.
  12. Location, names, and dimensions of existing and proposed streets, highways, utilities, easements, buildings, parks, open spaces or other improvements on or adjacent to the subdivision.
  13. Proposed building locations or building envelopes that meet all setback requirements of the Vassalboro Building Permit Ordinance and the Maine Subsurface Wastewater Disposal Rules.
  14. Proposed locations of private and/or community wells.
  15. For proposed subsurface wastewater disposal systems, the location of at least one test pit per lot, performed by a Maine licensed site evaluator or certified soil scientists; on lots where the limiting soil factor is less than 24", the location of a reserve disposal area not to be built upon.
  16. Location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.
  17. Location of any proposed open space areas to be preserved including vegetative buffers, common use areas, significant wildlife habitat and unique natural areas, historic or prehistoric sites, shoreland zone resource protection zones, and farmland. (See Sections 8.7 and 8.8).

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<sup>3</sup> *The Board may require that this information be submitted electronically in a format compatible with the assessor's records.*

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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18. Delineation of any flood hazard areas and the 100-year flood elevation, as depicted on the Town's Flood Insurance Rate Map. If any portion of the subdivision is within the flood hazard area, the following note shall be on the final recording plan: "If any portion of this subdivision is within a flood hazard area, all principal structures hereafter constructed or placed herein shall be so located that their lowest floor, including basement, is at least one foot above the 100-year flood elevation."
  19. Any waiver(s) approved by the Board as required in Section 9.3 Waivers.
- D. *Other Required Information*
1. Verification of right, title, and interest to the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
  2. Copy of the most recently recorded deed, deed restrictions, easements, rights-of-way, or other encumbrances affecting the property.
  3. Copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  4. When sewage disposal is to private subsurface systems, a copy of the test pit analysis for each lot.
  5. When sewage disposal is to a public sewer, a letter from the sanitary district confirming there is adequate capacity to collect and treat the wastewater, and that the design of the proposed collection system meets applicable utility rules and standards.
  6. When water is to be supplied by an on-site well(s), a letter from a local well-driller or hydrogeologist familiar with the area indicating it is likely the water supply will be adequate.
  7. When water is to be supplied by public water supply, a written statement from the servicing water district indicating there is adequate supply and pressure for the subdivision, and that the design of the water service system meets applicable utility rules and standards.
  8. For projects located wholly or partially within the wellhead protection area of a public water supply as mapped by the Maine Drinking Water Program, a written statement from the water provider indicating the proposed development will not negatively impact their essential operations.
  9. When a private community water supply system is proposed, evidence that the system shall conform to the Maine Rules Relating to Drinking Water (10-144A CMR 231).
  10. Medium intensity soils map (USDA Kennebec County Soil Survey) that encompasses the area to be subdivided. Wetlands shall be identified on the survey, regardless of size. The Board may require a high intensity soils map in instances where poor soils are evident.
  11. Description of the measures to be taken to control erosion and sedimentation onto adjacent properties including roads, and into lakes, ponds and other water bodies in accordance with the Maine Erosion and Sedimentation Control Best Management Practices, MDEP, 2003 (or most current edition).
  12. Location of any sand and gravel aquifers as mapped by the Maine Geologic Survey. The Board may require a hydrogeologic assessment prepared by a certified geologist or professional engineer, experienced in hydrogeology, when the subdivision is not served by a public sewer and/or any part of the subdivision is located over a sand and gravel aquifer identified by the Maine Geological Survey.
  13. Copy of driveway/entrance permit(s) from the Town and/or the Maine Department of Transportation.
  14. A letter from (each) the Vassalboro Town Manager, Road Commissioner and Chief Fire indicating their review and approval of the subdivision.
  15. Landscape plan that shows the preservation of any existing trees, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally significant areas.
  16. Description of the measures to be taken to assure there will not be an undue adverse effect to identified significant wildlife habitat and unique natural areas based on attached letters from public agency(ies) (Maine Department of Inland Fisheries and Wildlife, Maine Natural Areas Program, Maine Department of Marine Resources) and/or other experts as approved by the Board.
  17. Description of the measures to be taken to assure there will not be an undue adverse effect to any historic or prehistoric sites within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places based on attached letter(s) from the Maine Historic Preservation Commission and/or other experts as approved by the Board.
  18. Description of the measures to be taken to conserve productive farmland.

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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19. Description of proposed ownership, management and any improvements for all parcels proposed to be dedicated to public use and the conditions of such dedication.
  20. Evidence of adequate financial and technical capability to complete the project in the form of a letter(s) from certified financial institution(s) and/or a letter of credit. The Board may allow alternative forms of evidence should circumstances warrant.
  21. Affidavit signed by the applicant indicating that no timber harvest occurred on the tract within the preceding 5 years, or if it has, an affidavit signed by a licensed forester or an agent of the Maine Forest Service indicating that the timber harvest was not conducted in violation of rules adopted pursuant to 12 MRSA, §8869(14).
  22. E911 lot addresses shown on plan. =
- 6.2.3 Prior to submittal of the final plan application, any of the approvals required in Section 7.2.3, where applicable, shall be obtained in writing. 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 its applicability.
- 6.2.4 Prior to submittal of the final plan application, the applicant shall provide evidence that a legal entity has been established for common multi-user systems and ownership vested by deed reference for future potential owners for such items as roads, wells, septic systems, stormwater facilities, etc.. (See Section 7 Major Subdivision Submission Requirements for additional requirements, as applicable)

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**SECTION 7 – MAJOR SUBDIVISION SUBMISSION REQUIREMENTS**

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***7.1 Sketch Plan Submissions***

- 7.1.1 A sketch plan showing in simple form, the proposed layout of the subdivision shall be required for all major subdivision applications. The intent of the sketch plan is to provide the applicant, the CEO and the Board with a flexible, low-cost means to understanding the site, and to create a development plan that reflects the site's opportunities and constraints in accordance with the requirements of this Ordinance.
- 7.1.2 The sketch plan shall contain, at a minimum, 7 copies of the following information:
- A. Complete sketch plan application for a major subdivision.
  - B. Narrative describing the existing conditions of the site, the number and size of lots, and the constraints and opportunities of the site. The narrative should outline any traffic studies, utility studies, market studies or other applicable work to be conducted for the preliminary plan.
  - C. Name, addresses, and phone numbers of the record owner, the applicant, the preparer, and any consultants working on the project.
  - D. Evidence of right, title, or interest in the property.
  - E. Evidence of payment of the application fee and escrow deposit, if required.
  - F. Any anticipated requests for waivers from the submission requirements (See Section 9 Waivers).
  - G. Copy of the property tax map showing the map and lot number of the parcel to be subdivided.
  - H. Copy of a portion of the U.S.G.S. topographic map (7.5 min. quad.) of the area showing the boundaries of the proposed subdivision.
  - I. Copy of that portion of the Kennebec County Medium Intensity Soil Survey covering the proposed subdivision with the boundaries of the proposed subdivision shown.
  - J. Plan of the parcel, with an accurate scale, showing at a minimum the information listed, below.<sup>4</sup>
    - 1. Name(s) of the subdivision applicant and the owner of the parcel.
    - 2. North arrow, date and map scale.
    - 2. Boundary and lot lines of the subdivision.
    - 3. Approximate location, width and purpose of easements or restrictions, if applicable.
    - 4. Streets on and adjacent to the tract.
    - 5. Approximate location and size of existing utilities on and adjacent to the tract.
    - 6. Existing buildings, structures, or other improvements on the site.
    - 7. Major natural features of the site, approximated, including wetlands, streams, ponds, floodplains, groundwater aquifers, treelines, significant wildlife habitat and fisheries or other important natural features.

***7.2 Preliminary Plan Submissions***

- 7.2.1 *Consistency with Sketch Plan.* The preliminary plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the CEO and the Board. The CEO and the applicant should review Section 8 Review Criteria and Standards to determine if additional submissions may be required.
- 7.2.2 *Mandatory Submissions.* The following items shall be submitted as part of the preliminary plan application, unless the applicant submits a written waiver request, and is granted a waiver from the Board, pursuant to Section 9 Waivers. The Board may require additional information where it finds it necessary to determine whether the criteria of 30-A, MRSA, §4404 and this Ordinance are met. Seven copies of the following shall be submitted, unless otherwise indicated by the CEO.
- A. *A Completed Application, the Application Fee, and Establishment of Escrow Account (as applicable)*

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<sup>4</sup> *If the applicant decides to survey the property as part of the sketch plan, the applicant may want to obtain the required electronic data while the surveyor is on site (See electronic submission requirements for a final plan review)*

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## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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- B. *Location Map.* The location map shall be drawn at a size adequate to show the relationship of the proposed subdivision to the adjacent properties, and to allow the Board to locate the subdivision within the municipality. The location map shall show:
1. Existing land uses and subdivisions in the proximity of the proposed subdivision.
  2. Locations and names of existing and proposed streets.
  3. Boundaries and designations of shoreland zoning districts, if present.
  4. 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 holdings.
- C. *Preliminary Plan.* The preliminary plan shall be submitted in duplicate copies of one or more maps or drawings that may be reproduced on paper, with all dimensions shown in feet. The plan shall be drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn to a scale of not more than 200 feet per inch provided all necessary detail can be easily read. In addition, the applicant shall provide seven copies of the plan(s) reduced to a size of 8½ by 11 inches or 11 by 17 inches for forwarding to the Board. The following information shall be included on the plan:
- D. *Preliminary Plan*
1. Proposed name of the subdivision, or identifying title, and the name of the municipality(ies) in which it is located, plus assessor's map(s) and lot numbers.
  2. Date the plan was prepared, magnetic and true north points, and graphic map scale.
  3. Names and addresses of record owner, applicant, and preparer(s) of the plan.
  4. Deed references, and existing and proposed deed restrictions, covenants, easements, rights-of-way, or other encumbrances and conditions affecting the property. Include any public rights for physical or visual access to the shoreline of a water body.
  5. Names and addresses of all abutters, including any property owners directly across any existing road or street from the subdivision. Include property lines, tax map and lot numbers, and deed references.
  6. Standard boundary survey of the parcel with complete descriptive data by bearings and distances made by a licensed professional land surveyor. The entire parcel shall be shown, including all contiguous land in common ownership within the last 5 years, as required by Title 30-A MRSA §4401. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.<sup>5</sup>
  7. Location of all monuments to be placed at the corners of the parcel and each lot, and the type of monument (granite, concrete, iron pin, or drilled hole in ledge).
  8. Number of acres within the subdivision, and proposed lot lines with approximate dimensions and lot areas. Lot numbers to identify each lot.
  9. Contour lines at intervals determined by the Board.
  10. Location and boundaries of all water bodies and wetlands including vernal pools, and the location of any shoreland zoning affecting the tract. If any portion of the subdivision is located in the direct watershed of a great pond, the boundaries of the direct watershed and the name of the great pond.
  11. Location and type of vegetative cover, unusually large trees and other essential existing physical features.
  12. Location, names, and dimensions of existing and proposed streets, highways, utilities, easements, buildings, parks, open spaces or other improvements on or adjacent to the subdivision.
  13. Proposed building locations or envelopes that meet all setback requirements of the Vassalboro Building Permit Ordinance and the Maine Subsurface Wastewater Disposal Rules.
  14. Proposed locations of private and community wells.
  15. For subsurface wastewater disposal systems, the location of at least one test pit per lot, performed by a Maine licensed site evaluator or certified soil scientist. On lots where the limiting soil factor is less than 24", the location of a reserve disposal area not to be built upon.
  16. Location and size of existing and proposed sewers, water mains, culverts, and drainage ways on or adjacent to the property to be subdivided.

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<sup>5</sup> *The Board may require that this information be submitted electronically in a format compatible with the assessor's records.*

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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17. Delineation of any flood hazard areas and the 100-year flood elevation, as depicted on the Town's Flood Insurance Rate Map.
  18. Location of any proposed open space areas to be preserved including vegetative buffers, common use areas, significant wildlife habitat and unique natural areas, historic or prehistoric sites, shoreland zone resource protection zones, and farmland.
- E. *Other Required Information*
1. Verification of right, title, and interest to the property by deed, purchase and sales agreement, option to purchase, or some other proof of interest.
  2. Copy(ies) of the most recently recorded deed, deed restrictions, easements, rights-of-way, or other encumbrances affecting the property.
  3. Copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  4. For private subsurface sewage disposal systems, a copy of the test pit analysis for each lot performed by a Maine licensed site evaluator or certified soil scientist.
  5. For sewage disposal to a public sewer, a letter from the sanitary district confirming there is adequate capacity to collect and treat the wastewater from the subdivision.
  6. When water is to be from on-site wells, a letter from a local well-driller or hydrogeologist familiar with the area indicating it is likely the water supply will be adequate.
  7. When water is to be from a public water supply, a written statement from the servicing water district indicating there is adequate supply and pressure for the subdivision.
  8. When a private community water supply system is proposed, evidence the system shall conform to the Maine Rules Relating to Drinking Water (10-144A CMR 231).
  9. For projects located wholly or partially within the wellhead protection area of a public water supply as mapped by the Maine Drinking Water Program, a written statement from the water provider indicating the proposed development will not negatively impact their essential operations.
  10. High-intensity soil survey by a certified soil scientist. Wetlands shall be identified, regardless of size. A medium-intensity survey may be adequate, if the subdivision proposes low-density development and lots large enough to find house sites on suitable soils.
  11. The Board may require a hydrogeologic assessment when the subdivision is not served by a public sewer and/or any part of the subdivision is located over a sand and gravel aquifer identified by the Maine Geological Survey, or the subdivision has an average density of more than one dwelling unit per 100,000 square feet, or in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality. (See Section 8.2)
  12. An estimate of the amount and type of vehicular traffic to be generated on a daily basis and at peak hours. Trip generation rates shall be taken from the most recent available edition of the Trip Generation Manual, published by the Institute of Transportation Engineers. Trip generation rates from other sources may be used if the applicant demonstrates these sources better reflect local conditions.
  13. For subdivisions involving 28 or more parking spaces or projected to generate more than 140 vehicle trips per day, a traffic impact analysis, prepared by a professional engineer with experience in traffic engineering. The analysis shall indicate the expected average daily vehicular trips, peak-hour volumes, access conditions at the site, distribution of traffic, types of vehicles expected, effect upon the level of service of the street giving access to the site and neighboring streets which may be affected, and recommended improvements to maintain the desired level of service on the affected streets.
  14. All submissions required by the Town of Vassalboro Road Construction Ordinance and the Vassalboro Site Review Ordinance, as applicable.
  15. For subdivisions requiring a state permit under the Maine Site Location of Development Law or the Maine Stormwater Management Law, a stormwater management plan prepared by a professional engineer, demonstrating compliance with the standards of MDEP Rule Chapter 500 and 502 (Stormwater Management Regulations).
  16. For subdivisions within, or with areas within, the watershed of a great pond, and containing 5 or more lots or dwelling units created within any 5-year period, or any combination of 800 linear feet of new or

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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upgraded driveways and/or streets see Section 8.14 Phosphorus Control in Great Pond Watersheds for submission requirements.

17. An erosion and sedimentation control plan prepared by a qualified professional that details control structures to be installed along with ongoing maintenance procedures and practices to be followed during site preparation, construction and clean-up stages. The plan shall comply with 38 MRSA §420-H. Erosion and Sedimentation Control and the Maine Erosion and Sediment Control BMPs, Maine Department of Environmental Protection, 2003, or most current edition.
18. A letter from (each) the Vassalboro Town Manager, Fire Chief, Road Commissioner, and School Superintendent indicating their review and approval of the subdivision.
19. An affidavit that no timber harvesting has occurred on the tract within the preceding 5 years, or if it has, that it has not been conducted in violation of rules adopted pursuant to 12 MRSA §8869(14). The affidavit may be signed by a licensed forester or an agent of the Maine Forest Service.
20. Landscape or open space plan that shows the preservation of any existing trees, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally significant areas.
21. Description of the measures to be taken to assure there will not be an undue adverse effect to identified significant wildlife habitat and unique natural areas based on attached letters from public agency(ies) (Maine Department of Inland Fisheries and Wildlife, Maine Natural Areas Program, Maine Department of Marine Resources) and/or other experts as approved by the Board.
22. Description of the measures to be taken to assure there will not be an undue adverse effect to any historic or prehistoric sites within or adjacent to the proposed subdivision that are either listed on or eligible to be listed on the National Register of Historic Places based on attached letter from the Maine Historic Preservation Commission and/or other experts as approved by the Board.
23. Description of the measures to be taken to conserve productive farmland.
24. Description of proposed ownership, management and any improvements for all parcels proposed to be dedicated to public use and the conditions of such dedication.
25. Evidence of adequate financial capability to complete the project in the form of a letter(s) from certified financial institution(s) and/or a letter of credit. The Board may allow alternative forms of evidence should circumstances warrant the substitution.
26. Evidence of adequate technical capacity to construct the project to include the applicant's previous experience and the experience and training of the consultants and contractors.

7.2.2 The Board may require any additional information not listed above, when necessary to determine whether the statutory review criteria of 30-A, MRSA, §4404 and the requirements of this Ordinance have been met.

7.2.3 Prior to submittal of the final plan application, the following approvals shall be obtained in writing, where applicable:

- A. Maine Department of Environmental Protection, under the Site Location of Development Act, the Natural Resources Protection Act or the Stormwater Management Law, or if an MEPDES wastewater discharge license is needed.
- B. Maine Department of Health and Human Services, if the applicant proposes to provide a public water system, or if an engineered subsurface waste water disposal system(s) is to be utilized.
- C. U.S. Army Corps of Engineers, if a permit under Section 404 of the Clean Water Act is required.
- D. Maine Department of Transportation Traffic Movement Permit, and/or Highway Entrance/Driveway Access Management Permit.
- E. Written approval of any proposed street names from the Town of Vassalboro E911 Addressing Officer.

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.

**7.3 *Final Plan Submissions***

- 7.3.1 *Mandatory Submissions.* The following shall be submitted as part of the final plan application, unless the applicant submits a written waiver request, and is granted a waiver from the Board, pursuant to Section 9 Waivers. The Board may require additional information where it finds it necessary to determine whether the criteria of 30-A, MRSA, §4404 and this Ordinance are met. Seven copies of the following shall be submitted, unless otherwise indicated by the CEO.
- 7.3.2 All information presented in the preliminary plan and any amendments or conditions required by the Board must appear in the final plan application.
- 7.3.3 *Final Plan.* The final plan shall consist of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 100 acres may be drawn at a scale of not more than 200 feet to the inch provided all necessary detail can be easily read. Plans shall be no larger than 24 by 36 inches in size, and shall have a margin of 2 inches outside of the borderline on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be reserved on the plan for endorsement by the Board. One reproducible, stable-based transparency of the recording plan to be recorded at the Registry of Deeds, and 3 full sized paper copies of all the final plan sheets and any supporting documents shall be submitted. The original reproducible plan shall be embossed with the seal of the professional land surveyor or design engineer, and be signed by that individual. In addition, one copy of the plan shall be reduced to a size of 8½ by 11 inches or 11 by 17 inches for forwarding to Board members.
- 7.3.4 *Application Form, Fees, and Submissions.* In addition to the information provided in the preliminary plan, the final plan shall reflect revisions, including those required by the Board, and shall include or be accompanied by the following:
- A. Completed final plan application form and any required fees.
  - B. If different than those submitted with the preliminary plan, a copy of any proposed deed restrictions intended to cover all or part of the lots or dwellings in the subdivision.
  - C. Final proposed lot lines with dimensions, bearings, deflection angles radii and central angles sufficient to reproduce any line on the ground, and lot areas and total area to be subdivided. <sup>6</sup>
  - D. The location, names, and dimensions of existing and proposed streets, highways, easements, building lines, parks and other open spaces on or adjacent to the subdivision. The plan shall contain sufficient data to allow the location, bearing and length of every street line, lot line, and boundary line to be readily determined and be reproduced upon the ground. These lines shall be tied to reference points previously established.
  - E. Detailed design and construction plans for the infrastructure, including, but not limited to, roads, streets, parking lots, sidewalks, and utilities in accordance with the requirements of the Town of Vassalboro Road Construction Ordinance, the Town of Vassalboro Site Plan Review Ordinance, and this Ordinance.
  - F. When sewage disposal is through connection to the public sewer, a written statement from the sewer district indicating the district has reviewed and approved the sewerage design.
  - G. When water is to be from an existing public water supply, a written statement from the servicing water district indicating the district has reviewed and approved the water system design. Also, a written statement from the Fire Chief approving all hydrant locations or other fire protection measures.
  - H. All parcels of land proposed to be dedicated to public use and the conditions of such dedication. Written offers to convey title to the Town of all public ways and open spaces shown on the plan, and 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 bylaws and condominium declarations.

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<sup>6</sup> *In order to facilitate the addition of the subdivision into the town property records and geographic information system, the Board may require that subdivision plans be submitted in electronic format compatible with Town's property tax records.*

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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- I. If proposed streets and/or open spaces or other land is to be offered to the Town, written evidence that the Board of Selectmen are satisfied with the legal sufficiency of the written offer to convey title. All roads and other public improvements not dedicated to the Town during such time prior to the actual acceptance by the Town shall be maintained by the subdivision owners or developer. A legal agreement indicating how the infrastructure will be maintained shall be submitted. The Board shall review the maintenance plan to ensure sufficient provisions have been incorporated to maintain all improvements for the applicable time period. The Road Commissioner shall review the road plan to confirm there is an adequate right-hand turnout for snowplow access, unless the road is to be forever private.
- J. If roads are to remain privately owned, the following shall be noted on the final plan: "All roads shall remain private roads to be maintained by the developer or lot owners, and shall not be accepted or maintained by the Town."
- K. The construction items for which cost estimates and performance guarantees will be required as prerequisite to the approval of the final plan. This submission shall include a construction schedule, cost estimates for each major phase of the development taking into account inflation, provisions for inspections of each phase of construction, and a completion date after which the developer will be in default and the Town will have the option to access the funds in the performance guarantee to finish the construction. Approval by the Board of a subdivision plan shall not constitute or be evidence of any acceptance by the Town of any street, easement, or other open space shown on the plan. When a park or other recreation area has been shown on the plan to be dedicated to the Town, 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. The Board may also require the filing of a written agreement between the applicant and the Board of Selectmen covering future deed and title dedication, and provision for the cost of grading, development, equipment, and maintenance of any such dedicated area.
- L. E911 lot addresses shall be shown on the plan.
- M. If any portion of the subdivision is within the flood hazard area, the following note shall be on the final recording plan: "If any portion of this subdivision is within a flood hazard area, all principal structures hereafter constructed or placed herein shall be so located that their lowest floor, including basement, is at least one foot above the 100-year flood elevation."
- N. Any waiver(s) approved by the Board shall be noted on the recording plan (See Section 9.3 Waivers.

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**SECTION 8 - REVIEW CRITERIA AND STANDARDS**

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*Purpose:* The review criteria in this section are those found in 30-A, MRSA, §4404. The following standards clarify and expand upon the review criteria. Alternative designs and approaches to the standards that will satisfy the criteria equally as well, or better, may be considered. In all instances, the burden of proof shall be upon the applicant to present information that, in the judgment of the Board, sufficiently demonstrates conformance with the review criteria and standards. This shall not be construed as limiting the authority of the Board to require additional evidence or impose additional standards based on characteristics of the site or development. For example, the Board may require that minor subdivisions meet the additional requirements of major subdivisions where necessary to demonstrate conformance with the review criteria and standards of this section.

*Findings of Fact and Conclusions of Law.* In issuing its decision, the Board shall make written findings of fact and conclusions of law relative to the review criteria and standards contained in 30-A, MRSA, §4404 and in this Ordinance. Applicants for major subdivisions shall prepare written findings of fact and conclusions of law for the Board's consideration. If the Board finds that all criteria and standards of the Statute and this Ordinance have been met, it shall approve the final plan. If the Board finds that any of the provisions of the Statute, or of this Ordinance have not been met, the Board shall either deny the application or approve the application with conditions to ensure all of the criteria and standards shall be met by the development.

***8.1 Sufficient Water Supply***

8.1.1 *Criterion: The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision.*

8.1.2 *Criterion: Municipal Water Supply. The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used.*

8.1.3 *Standards:*

- A. *Individual Wells and Private Community Water Supplies.* A subdivision not served by either the East Vassalboro Water Company (EVWC) or Kennebec Water District (KWD) shall be served in accordance with applicable state rules for individual wells or private community water supply systems.
1. The Board may require applicants to submit a letter from a local well driller or hydrogeologist familiar with the area indicating there is a sufficient, healthful water supply to serve the needs of the subdivision.
  2. *Individual Wells*
    - a. Individual wells shall be sited and constructed to prevent infiltration of surface water, and contamination from subsurface waste water disposal systems and other potential sources of contamination.
    - b. A dug well on a lot with an area of less than one acre shall not be used as a drinking water source. Where applicable, this restriction shall be included in lot deeds and noted on the subdivision plan.
    - c. Each lot shall be designed so that wells can comply with the Maine Subsurface Wastewater Disposal Rules and the Maine Well Drillers and Pump Installers Rules.
  3. *Private Community Water Supply Systems*
    - a. The water source, source protection measures, and system design, installation and operating procedures for a private community water supply system shall conform to the standards of the Maine Rules Relating to Drinking Water (10-144A C.M.R. 231).
    - b. Documents establishing the legal responsibilities and procedural framework for the ongoing fiscal and operational management of the community water system shall be executed prior to occupancy of the subdivision.
  4. *Major Subdivisions (additional standards), Fire-Fighting Water Storage Facilities.* In areas where the Vassalboro Fire Department (VFD) has identified the need for additional water storage capacity for

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## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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fire-fighting, water storage facilities such as ponds and underground storage tanks, satisfactory to the VFD Fire Chief, shall be provided at the applicant's expense.

- B. *East Vassalboro Water Company (EVWC) and Kennebec Water District (KWD)*. The following standards apply to a subdivision located within either the EVWC or KWD service area:
1. Upon occupation of the subdivision, service demand shall fall within the EVWC's or KWD's available service capacity, as applicable.
  2. The complete water service system, including the service lines to each lot or unit, and fire hydrants, shall be designed and installed in accordance with the rules and specifications of the applicable public water supplier (EVWC, KWD) and at the applicant's expense. The applicant shall provide letters from the applicable water supplier and Fire Chief indicating that the water service system is designed to their satisfaction.

### **8.2 Impact on Groundwater Quality and Quantity**

8.2.1 *Criterion: The subdivision will not, alone or in conjunction with existing activities, adversely affect the quality or quantity of groundwater.*

8.2.2 *Standards:*

- A. *Groundwater Quality and Quantity*. The subdivision shall not pose an unreasonable risk that a discharge of pollutants to groundwater will occur, or that groundwater withdrawals will lower the water table beyond the boundaries of the subdivision. Additionally, the subdivision shall not pose an unreasonable risk of lowering of the water table beyond the boundaries of the subdivision by increasing runoff with a corresponding decrease in infiltration.
- B. *Hydrogeologic Assessment*
1. The Board may require a hydrogeologic assessment prepared by a certified geologist or professional engineer, experienced in hydrogeology, when the subdivision is not served by public sewer and;
    - a. Any part of the subdivision is located over a sand and gravel aquifer, as shown on a map entitled "Hydrogeologic Data for Significant Sand and Gravel Aquifers," by the Maine Geological Survey, 1985 as amended; or
    - b. The subdivision has an average density of more than one dwelling unit per 100,000 square feet.
  2. The Board may require a hydrogeologic assessment in other cases where site considerations or development design indicate greater potential of adverse impacts on groundwater quality. These cases may include:
    - a. Extensive areas of shallow depth to bedrock soils;
    - b. Developments in which the average density is less than one dwelling unit per 100,000 square feet, but the density of the developed portion is in excess of one dwelling unit per 80,000 square feet; and/or
    - c. The proposed development will use shared or common subsurface waste water disposal systems.
  3. The hydrogeologic assessment should contain at least the following information:
    - a. A map showing the basic soils types and locations of any subsurface waste water disposal systems and drinking water wells within the subdivision and within 200 feet of the subdivision boundaries.
    - b. The depth to the water table at representative points throughout the subdivision.
    - c. Drainage conditions throughout the subdivision.
    - d. Data on existing groundwater quality, either from test wells in the subdivision or from existing wells on neighboring properties.
    - e. An analysis and evaluation of the effect of the subdivision on groundwater resources. In the case of residential development, the evaluation shall, at a minimum, include a projection of post-development nitrate-nitrogen concentration at any wells within the subdivision, at the subdivision boundaries and at a distance of 1,000 feet from potential contamination sources, whichever is a shorter distance. Projections of groundwater quality shall be based on the assumption of drought conditions (i.e. 60% of annual average precipitation).

4. Drinking water wells and subsurface wastewater disposal systems shall be constructed as shown on the map submitted with the assessment. If construction standards for drinking water wells are recommended in the assessment, those standards shall be included as a condition of plan approval, and as restrictions in the deeds to the affected lots.

### **8.3 Soil Erosion, Sedimentation and Impact on Water Bodies**

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

8.3.2 *Standards:*

- A. The proposed subdivision shall be designed to prevent soil erosion and sedimentation from entering water bodies, wetlands, and adjacent properties.
- B. The subdivision shall comply with 38 MRSA, §420-C. Erosion and Sedimentation Control and the Maine Erosion and Sediment Control BMPs, Maine Department of Environmental Protection, 2003, or most current edition.
- C. Filling, excavation, and earth moving activity shall be carried out in a way that keeps erosion and sedimentation to a minimum, including:
  1. Preservation and protection of natural vegetation where possible;
  2. Keeping duration of exposure of disturbed soils to as short a period as possible before stabilization;
  3. Use of temporary vegetation or mulching to protect exposed critical areas during development;
  4. Where appropriate or necessary, use of sediment basins, silt traps or other acceptable methods to trap sediment from stormwater run-off;
  5. No storage of fill materials within 50 feet of any intermittent or perennial stream, or water body;
  6. Topsoil shall not be removed from the site, except for surplus topsoil removed from areas to be occupied by buildings, paving, or other surfaces that will not be revegetated;
  7. Adequate provision shall be made for surface drainage so that discharge of stormwaters will not have an unreasonable adverse effect on neighboring properties, downstream water quality, soil erosion or the public storm drain system. Whenever possible, on-site absorption of run-off shall be used to minimize discharges from the site.
- D. Cutting or removal of vegetation along water bodies shall not increase water temperature or result in shoreline erosion or sedimentation.
- E. *Major Subdivisions (additional requirement), Erosion Control Plan.* An application for a major subdivision shall include an erosion and sedimentation control plan, prepared by a qualified professional that details control structures to be installed, ongoing maintenance procedures, and practices to be followed during the site preparation, construction, and clean-up stages.

### **8.4 Traffic Conditions**

8.4.1 *Criterion: 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, 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.*

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## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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### 8.4.2 *Standards:*

- A. Provision shall be made for vehicular access to the subdivision and circulation within the subdivision to: safeguard against hazards to traffic and pedestrians in existing streets and within the subdivision; avoid traffic congestion on any street; and provide safe and convenient circulation on public streets and within the subdivision.
- B. Access and circulation shall also conform to the following:
  - 1. *Entrance/ Driveway Permits Required*
    - a. *State Permit.* If the proposed subdivision requires driveways or street entrances onto a state or state aid highway, the applicant shall provide documentation indicating that the driveways or entrances conform to Maine Department of Transportation (MDOT) Chapter 299, Highway Driveway and Entrance Rules.
    - b. *Local Permit.* If the proposed subdivision requires driveways or street entrances onto a town road, the applicant shall provide documentation indicating the driveways or entrances conform to the Vassalboro Road Construction Ordinance.
  - 2. If the proposed subdivision requires a MDOT Traffic Movement Permit (23 MRSA, §704-A), the applicant shall submit evidence of permit approval from the MDOT.
  - 3. Where a subdivision lot is proposed to have frontage on two or more streets, access to the lot shall be via the street where there is lesser potential for traffic congestion and for hazards to traffic and pedestrians. The Board may waive this requirement where there are aspects of the site that would make this requirement not feasible.
- C. *Major Subdivisions (additional standards)*
  - 1. The street providing access to the subdivision and neighboring streets and intersections which can be expected to carry traffic generated by the subdivision shall have the capacity or be suitably improved to accommodate that traffic and avoid unreasonable congestion. The Board may require a traffic impact study of roadways and intersections in the vicinity of the proposed subdivision if the subdivision has the potential of generating significant amounts of traffic, or if traffic safety and capacity deficiencies exist in the vicinity of the project site.
  - 2. Accessways shall be designed to avoid queuing of entering vehicles on any street. Internal roadways should be utilized if at all possible. A study or analysis to determine the need for a left-turn storage lane shall be done when peak hour traffic is forecast to be 40 or more vehicles.
  - 3. Where topographic and other conditions allow, provisions shall be made, and noted on the plan, for connections to adjoining lots of similar existing or potential use wherever: (i) the access connection will facilitate fire protection services as approved by the Fire Chief; (ii) the adjoining tract is deeded to or otherwise under the control of the subdivider; or (iii) it would enable the public to travel between adjacent developments without the need to travel upon a street outside the subdivision.
  - 4. All transportation infrastructure, including, but not limited to, roads, streets, parking and loading and unloading areas, and sidewalks shall conform to the design and construction standards of the Town of Vassalboro, Maine, Road Construction Ordinance, and the Town of Vassalboro Site Plan Review Ordinance.

## ***8.5 Sewage Disposal***

8.5.1 *Criterion: The proposed subdivision will provide for adequate sewage waste disposal and will not cause an unreasonable burden on municipal services if they are utilized.*

### 8.5.2 *Standards:*

- A. *Private Systems.* A proposed subdivision served by individual subsurface wastewater disposal systems, or by a common collection and subsurface disposal system, or other treatment system shall be in full compliance with the Maine Subsurface Wastewater Disposal Rules.

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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1. The applicant shall submit evidence of site 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.
  2. On lots in which the limiting factor has been identified as being within 24 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 in the deed so as not to be built upon.
  3. In no instance shall a disposal area be on a site that requires a New System Variance from the Subsurface Wastewater Disposal Rules.
- B. *Vassalboro Sanitary District (VSD)*. For a subdivision located within the service area of the VSD, prior to final subdivision approval, the applicant shall provide written confirmation from the VSD that: the design of the proposed subdivision collection system meets applicable utility rules and standards; and the District's collection and treatment system has or will have, prior to occupancy of the subdivision, sufficient capacity to serve the proposed subdivision.

### **8.6 Solid Waste**

8.6.1 *Criterion: 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.*

8.6.2 *Standards:*

- A. The application shall include a letter from the Town Manager referencing the ability of the Town's facility to absorb the additional materials.
- B. If solid waste from a proposed subdivision is expected to: (a) exceed the available capacity of the Town's solid waste facility; (b) cause the Town's facility to become non-compliant with its MDEP license; or (c) cause the Town to exceed the tonnage limits of its contract with a non-municipal facility, the Board shall require the applicant to submit evidence of an alternate arrangement for the disposal of solid waste. Any disposal facility included in the alternate arrangement shall be in compliance with its license.

### **8.7 Aesthetic, Cultural and Natural Values**

8.7.1 *Criterion: 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.*

8.7.2 *Standards:*

- A. *Landscape Plan*. The Board may require a landscape plan that shows the preservation of any existing trees, the replacement of trees and vegetation, graded contours, streams, and the preservation of scenic, historic, or environmentally significant areas. Further, the Board may require notes on the final plan and deed restrictions, as necessary to assure the required landscaping is maintained in the future.
- B. *Public Rights for Physical or Visual Access to the Shoreline*. Any existing or proposed public or private rights for physical or visual access, including access to the shoreline of a water body, shall be depicted on the plan and shall be described in the deed or deeds of any lot or other parcel within the subdivision that benefits from or is subject to such access rights.
- C. *Retention of Important Open Spaces, and Natural and Cultural Resources*. Developments shall be designed to retain and conserve important open spaces, and natural and cultural resources to the greatest extent practicable to assure there will be no undue adverse effect to these resources. The Board may require that any restrictions to protect historic and prehistoric sites, unique natural areas, or significant wildlife habitat appear as notes on the plan and as deed restrictions to the affected lots.
  1. *Historic/Prehistoric Sites*. An application for a subdivision that includes any historic or prehistoric sites that are either listed on, or deemed eligible to be listed on the National Register of Historic Places, shall describe the measures to be taken to assure there will not be an undue adverse effect on these sites.

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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2. *Unique Natural Areas.* An application for a subdivision that includes any area designated as a Unique Natural Area by the Maine Natural Areas Program (MNAP) shall describe the measures to be taken to assure there will not be an undue adverse effect on these unique natural areas and the species they support.
  3. *Significant Wildlife Habitat (SWH).* If any portion of a subdivision lies within 250 feet of SWH as identified and mapped by the Maine Department of Inland Fisheries and Wildlife (MDIFW), the following shall apply: (i) the application shall describe the measures to be taken to assure there will not be an undue adverse effect on the SWH and the species it supports; (ii) there shall be no cutting of vegetation within such areas, or within the strip of land extending at least 75 feet from the edge of the normal high-water mark of such habitat areas unless the applicant demonstrates there will be no undue adverse effects; and (iii) the application shall include written comments from the MDIFW.
- D. *Major Subdivisions (additional standards): Reservation, Dedication and Maintenance of Common Open Space and Associated Facilities.* The Board may require the reservation of common open space (as defined) within a proposed subdivision to conserve cultural or natural resources, to maintain productive farmland, and/or to provide for the recreational needs of the occupants of the subdivision.
1. In determining the need for common open space the Board shall consider the following:
    - a. Open space needs consistent with the Board's findings for Sections 8.7.2, A, B and C (above), and Section 8.8 Farmland, including the proximity of the subdivision to neighboring open space with similar purposes.
    - b. Recreational needs for common open space based on the proximity of the subdivision to neighboring facilities, the type of development and the demographic characteristics of potential residents of the subdivision, and the density of the development.
  2. Land reserved for common open space purposes shall be of a character, configuration and location suitable for the particular use intended.
  3. Further subdivision of common open space and its use for other than conservation, agriculture or non-commercial recreation shall be prohibited, except that easements for underground utilities may be allowed. Only structures accessory to conservation or non-commercial recreation uses may be erected on common open space. Common open space that is to be owned by an entity other than the Town shall be subject to a perpetual conservation easement, held by the Town, the state, or a qualified land trust.
  4. All common open space and associated facilities shall be owned by an incorporated lot owners' association to which all lot or dwelling unit owners shall belong, a land trust or other qualified nonprofit land conservation organization, or the Town.
  5. Notes on the final plan shall state that common open space shall not be used for residential or commercial purposes, and shall indicate which portions of the common open space, if any, are to be offered to the Town for acceptance.
  6. The final plan application shall include draft legal documents to assure the common open space is adequately maintained by the lot owners, and the developer until there is adequate development for the lot owners to assume maintenance of the open space.

### **8.8 Farmland**

- 8.8.1 *Criterion:* 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.
- 8.8.2 *Standards:* All developments shall be configured to preserve productive farmland (as defined) to the maximum extent practicable. New structures and roads may be built on farmland to the extent allowed under other provisions of this Ordinance, but the applicant shall seek creative measures to minimize development that occurs on productive farmland, or divides a single field, or otherwise reduces the ease with which a parcel of farmland can be farmed in the future. All areas of farmland of 5 or more acres must be identified on one or more plan drawings. Farmland is defined by state statute as any area of 5 or more acres of land that is classified as prime farmland, unique farmland, or farmland of statewide importance by

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## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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the United States Department of Agriculture Natural Resource Conservation Service, or is used for the production of agricultural products as defined in 7 MRSA §152(2).

### **8.9 Conformance with Local Ordinances and Plans**

- 8.9.1 *Criterion: The proposed subdivision is in conformance with the duly adopted plans and ordinances for the Town of Vassalboro. In making this determination, the Planning Board may interpret these ordinances and plans.*
- 8.9.2 *Standard: The proposed subdivision shall conform to the Town's Shoreland Zoning Ordinance, Site Review Ordinance, Floodplain Ordinance, Road Construction Ordinance, Building Permit Ordinance, and other ordinances and plans, as applicable.*

### **8.10 Financial and Technical Capacity**

- 8.10.1 *Criterion: The developer has adequate financial and technical capacity to meet the standards of this Ordinance.*
- 8.10.2 *Standards:*
- A. *Financial Capacity.* The applicant shall demonstrate the availability of financial resources sufficient to implement the proposed subdivision plan. In determining the applicant's financial capacity, the Board shall consider cost estimates for implementation of the plan, letters from prospective sources of financing, the proposed time frame for construction, and performance guarantees required of the applicant, as applicable. (See Section 11 Performance Guarantees and Inspection of Required Improvements)
  - B. *Technical Capacity.* The applicant shall demonstrate the qualifications of the contractors and consultants, who will supervise, construct and inspect the improvements of the proposed subdivision, as applicable. In determining the applicant's technical ability, the Board shall consider the applicant's previous experience, the experience and training of the applicant's consultants and contractors, and the number and nature of any violations of previous approvals granted to the applicant, as applicable.

### **8.11 Floodplain Management**

- 8.11.1 *Criterion: 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.*
- 8.11.2 *Standards: When any part of a subdivision is located in a special flood hazard area as identified by the Federal Emergency Management Agency (FEMA), the following shall apply:*
- A. The applicant shall determine the 100-year flood elevation, and the flood hazard boundaries within the subdivision shall be shown on the subdivision plan.
  - B. All public utilities and facilities, such as sewer, gas, electrical, and water systems, shall be located and constructed to minimize or eliminate flood damage.
  - C. Adequate drainage shall be provided to reduce exposure to flood hazards.
  - D. The subdivision plan shall include a statement that all principal structures shall be constructed with their lowest habitable floor, including the basement, at least one foot above the 100-year flood elevation. Such a restriction shall be included in any deed, lease, purchase and sales agreement, or document transferring or expressing the intent to transfer any interest in real estate or structure.
  - E. The plan shall meet the requirements of the Town's Floodplain Management Ordinance.

**8.12 Freshwater Wetlands, Rivers, Streams and Brooks**

8.12.1 *Criterion: All freshwater wetlands within the proposed subdivision shall be identified on any maps submitted as part of the application, regardless of the size of these wetlands.*

8.12.2 *Criterion: 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, §480-B, sub§9.*

*Standards.* Every wetland, river, stream or brook within or abutting the proposed subdivision shall be identified and depicted on the subdivision plan. Wetland boundaries shall be delineated in the field in accordance with the *1987 Corps of Engineers Wetland Delineation Manual*, published by the United States Army Corps of Engineers.

**8.13 Stormwater Management**

8.13.1 *Criterion: The proposed subdivision will provide for adequate stormwater management.*

8.13.2 *Standards:*

- A. Adequate provision shall be made for the management of the quantity and quality of all stormwater generated within the subdivision, including the collection and disposal of all runoff from proposed streets, parking areas, and other impervious surfaces. Stormwater shall be retained using vegetation and other natural features of the site to the greatest extent feasible. Stormwater shall not create adverse impacts on water bodies, or on abutting or downstream properties.
- B. *Major Subdivisions and Developments Requiring State Stormwater Permits (additional standards)*
  - 1. Applications for subdivisions that require a state permit under the Site Location of Development Law or the Stormwater Management Law shall include a stormwater management plan, prepared by a professional engineer, demonstrating compliance with the standards of MDEP Rule Chapter 500 (Stormwater Management Regulations). Applications shall include a copy of the State permit.
  - 2. For projects involving structural treatments, such as detention ponds, a Stormwater Maintenance Agreement that describes how the stormwater facilities shall be maintained through the course of their projected life, shall be submitted at the time of application.

**8.14 Lake Phosphorus Concentration**

8.14.1 *Criterion: 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.*

8.14.2 *Standards:* If any portion of the proposed subdivision is in the direct watershed of a Great Pond<sup>7</sup>, the following shall be submitted or indicated on the plan:

- A. *Major Subdivisions (additional standards):* For subdivisions containing 5 or more lots or dwelling units created within any 5-year period, or any combination of 800 linear feet of new or upgraded streets, the following is required:
  - 1. A Stormwater Management Plan shall be submitted that meets the phosphorus allocation across the entire subdivision in accordance with the methodology described in the MDEP Phosphorus Design Manual, Volume II of the Maine Stormwater Best Management Practices Manual, 2006, or most current editions. The phosphorus impact analysis and control plan shall include all worksheets, engineering calculations, and construction specifications and diagrams for control measures.

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<sup>7</sup> Great ponds with watersheds within Vassalboro include Webber Pond, Threemile Pond, China Lake (West Basin), Pattee Pond, Spectacle Pond, and Threecornered Pond. (Source: Maine Department of Environmental Protection Per Acre Phosphorus Allocations for Selected Maine Lakes, updated 11/18/10)

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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2. A long-term maintenance plan for all phosphorus control measures shall be submitted.
- B. For all other subdivisions not included in subsection 8.14.2.A above, meeting the requirements of 8.3 Erosion and Sedimentation and 8.13 Stormwater Management shall be demonstration that this criterion has been met.

### **8.15 Spaghetti Lots Prohibited (Shoreland Zoning Areas)**

- 8.15.1 *Criterion: If any lots in the proposed subdivision have shore frontage on a river, stream, brook, or great pond as these features are defined in 38 MRSA, §480-B, none of the lots created within the subdivision will have a lot depth to shore frontage ratio greater than 5 to 1.*
- 8.15.2 *Standard: The subdivision plan shall clearly show that any subdivision lot with shore frontage on a river, stream, brook or great pond, as defined in the Maine Shoreland Zoning statute, will not have a lot depth to shore frontage ratio greater than 5 to 1.*<sup>8</sup>

### **8.16 Impact on Adjoining Municipality**

- 8.16.1 *Criterion: 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.*
- 8.16.2 *Standard: If any proposed subdivision crosses municipal boundaries, the Board shall conduct a review parallel to the review of the adjoining municipality, and shall attempt to conduct at least one joint meeting. If either municipality requests a traffic study or traffic impact analysis by the applicant, the study shall be made available to both review authorities.*

### **8.17 Lands Subject to Liquidation Harvesting**

- 8.17.1 *Criterion: Timber on the parcel being subdivided has not been harvested in violation of rules adopted pursuant to 12 MRSA, §8869, sub-§14, adopted by the Maine Forest Service to substantially eliminate liquidation harvesting.*
- 8.17.2 *Standards:*
  - A. If the tract to be subdivided shows evidence of having been forested within the preceding 10 years, the applicant shall submit an affidavit concerning the status of timber harvesting operations. The affidavit shall be signed by the Maine Forest Service (MFS) or a forester licensed pursuant to Title 32, chapter 76. The affidavit shall state whether the timber was harvested in compliance with 38 MRSA, §8869(14), and the MFS Rule (Chapter 23 Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting).
  - B. If a violation of the above-cited rules adopted by the MFS has occurred, the Board 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. The Board may request technical assistance from the MFS to determine whether a rule violation has occurred. For the purposes of this subsection, "parcel" means a contiguous area within the Town owned by one person or a group of persons in common or joint ownership.

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<sup>8</sup> See Section 1.2.3 B with reference to 40 acre lot exemption.

**8.18 *Pollution***

8.18.1 *Criterion: The proposed subdivision will not result in undue water or air pollution. In making this determination, the Board 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.*

8.18.2 *Standards:*

- A. Water Pollution*
  - 1. The proposed subdivision will meet all applicable water quality control standards of the Maine Department of Environmental Protection (MDEP).
  - 2. Water supplied to lots or units within the subdivision shall meet the primary drinking water standards contained in the Maine Rules Relating to Drinking Water. If water supplied to any lot or unit within the subdivision contains contaminants in excess of the secondary drinking water standards in the Maine Rules Relating to Drinking Water, that fact shall be disclosed in a note on the final subdivision plan.
  - 3. The subdivision will meet the requirements of sections 8.3, 8.5, 8.10, 8.11, and 8.14 of this Ordinance.
- B. Air Pollution.* The proposed subdivision will meet any applicable air pollution regulations of the MDEP.

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**SECTION 9 - WAIVERS**

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**9.1 Waivers of Certain Submission Requirements**

The Board may waive certain submission requirements where there are special circumstances of the development, or where the application is simple and minor in nature, provided the public health, safety, and welfare are protected, and provided the waivers do not have the effect of nullifying the intent and purposes of this Ordinance.

**9.2 Waivers of Certain Improvements**

The Board may waive certain required improvements where there are special circumstances of the development such that the required improvements are not requisite to providing for the public health, safety and welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed development, provided the waivers do not have the effect of nullifying the intent and purposes of this Ordinance.

**9.3 Requirements for Waivers**

When granting waivers, the Board shall set conditions so that the purposes of this Ordinance are met. The Board shall make a written record of waivers granted and the reasons for granting them to be made a part of the decision on the application. When the Board grants a waiver to any of the improvements required by this ordinance, the final plan, to be recorded in the Registry of Deeds, shall indicate the waiver(s) granted and the date on which they were granted.

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**SECTION 10 - REVISIONS TO APPROVED PLANS**

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**10.1 Procedure and Scope of Review**

- 10.1.1 If the revision involves only modifications of the approved plan, without the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed.
- 10.1.2 *Minor Subdivisions.* If the revision involves the creation of additional lots or dwelling units, the procedures for final plan approval shall be followed, unless the addition of lots or dwelling units creates a major subdivision, in which case Section 10.1.3 below shall apply.
- 10.1.3 *Major Subdivisions.* If the revision involves the creation of additional lots or dwelling units, the procedures for preliminary and final plan approval shall be followed.
- 10.1.4 The scope of review shall be limited to those portions of the plan proposed to be changed.

**10.2 Submissions**

The applicant shall submit a copy of the approved plan as well as 7 copies of the proposed revisions, with enough supporting information to allow the Board to determine if the proposed revisions meet the standards of this Ordinance. The revised plan shall indicate it is the revision of a previously approved and recorded plan, and shall show the title of the subdivision and the book and page or cabinet and sheet on which the original plan is recorded at the Registry of Deeds.

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**SECTION 11 - PERFORMANCE GUARANTEES AND INSPECTION OF  
REQUIRED IMPROVEMENTS**

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**11.1 Performance Guarantees**

The Board shall require performance guarantees for all improvements necessary to meet the standards of this Ordinance, including performance guarantees for the construction of the streets, pedestrian amenities, stormwater management facilities, public sewage collection or disposal facilities, public water systems, landscaping and recreation improvements, and erosion and sedimentation control measures.

**11.2 Types of Guarantees**

The applicant shall provide one of the following types of performance guarantees with the application for final plan approval. The performance guarantee shall be 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 rates for construction costs.

- A. *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 applicant, 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 applicant 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 applicant and the amount withdrawn to complete the required improvements.
- B. *Performance Bond.* A performance bond issued by a surety company shall be made payable to the Town and approved by the Board of Selectmen or Town Manager. The performance bond shall detail the conditions of the bond, the method for release of the bond or portions of the bond to the applicant, and the procedures for collection by the Town. The bond documents shall specifically reference the subdivision for which approval is sought.
- C. *Letter of Credit.* 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 Board of Selectmen, or Town Manager. 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.

**11.3 Conditions and Contents of the Guarantee**

- 11.3.1 The conditions and amount of the performance guarantee shall be determined by the Board with the advice of the Town Manager, Road Commissioner, Board of Selectmen, town attorney, and/or a professional engineer employed by the Town to review the proposed development.
- 11.3.2 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 of part or all of the performance guarantee to the developer, and a date after which the applicant will be in default and the Town shall have access to the funds to finish construction.
- 11.3.3 A period of one year, or such period as the Planning Board may determine appropriate, not to exceed 5 years, shall be set forth in the performance guarantee within which time required improvements must be completed.

**11.4 Release of Guarantee**

11.4.1 Prior to the release of any part of the performance guarantees, the Board shall determine to its satisfaction, in part upon the report of the CEO or other qualified individual(s) retained by the Town, and any other agencies and departments involved, that the proposed improvements meet or exceed the design and construction requirements for that portion or phase of the subdivision for which the release is requested.

11.4.2 *Default.* If, upon inspection, the CEO and/or other qualified individual(s) working on behalf of the Town finds any of the required improvements have not been constructed in accordance with the plans and specifications filed as part of the application, (s)he shall so report in writing to the Board of Selectmen, the Planning Board and the developer. The Board of Selectmen shall take any steps necessary to preserve the Town's rights. (See also Section 2.5 Violations and Enforcement.)

**11.5 Conditional Agreement**

11.5.1 The Board, at its discretion, may provide for the applicant to enter into a binding agreement with the Town in lieu of the other financial performance guarantees. Such an agreement shall provide for approval of the final plan on the condition that no lot may be sold or built upon until either:

- A. It is certified by the Board, or its agent, that all of the required improvements have been installed in accordance with this Ordinance and the Board's conditions of approval, or
- B. A performance guarantee, acceptable to the Town, is submitted in an amount necessary to cover the completion of the required improvements at an amount adjusted for inflation and prorated for the portions of the required improvements already installed.

11.5.2 All conditional agreements shall have a time limit for completion and shall be approved by the Planning Board and by the Board of Selectmen prior to final review of the plan. Notice of the agreement and any conditions shall be noted on the plan which is recorded at the Registry of Deeds.

11.5.3 Release from the agreement shall follow the procedures contained in Section 11.4.

**11.6 Inspection of Required Improvements**

11.6.1 At least 5 days prior to commencing construction of required improvements, the developer shall:

- A. Notify the CEO in writing of the time when (s)he proposes to commence construction of such improvements, so the Board of Selectmen can arrange for inspections to assure all Town specifications, requirements, and conditions of approval are met during the construction of required improvements, and to assure the satisfactory completion of improvements and utilities required by the Board.
- B. Deposit with the Board of Selectmen a check for the amount of 2% of the estimated costs of the required improvements to pay for the costs of inspection. If upon satisfactory completion of construction and cleanup there are funds remaining, the surplus shall be refunded to the developer as appropriate. If the inspection account shall be drawn down by 90%, the developer shall deposit an additional 1% of the estimated costs of the required improvements.

11.6.2 If the CEO finds upon inspection of the improvements any of the required improvements have not been constructed in accordance with the plans and specifications filed by the developer, the CEO shall so report in writing to the Board of Selectmen, Planning Board, and the developer. The Board of Selectmen shall take any steps necessary to assure compliance with the approved plans.

11.6.3 If at any time it appears necessary or desirable to modify the required improvements before or during the construction of the required improvements, the CEO is authorized to approve minor modifications due to

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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unforeseen circumstances such as encountering hidden outcrops of bedrock, natural springs, etc. The CEO shall issue any approval under this section in writing and shall transmit a copy of the approval to the Board. Revised plans shall be filed with the Board. For major modifications, such as relocation of rights-of-way, property boundaries, changes of grade by more than 1%, etc., the developer shall obtain permission from the Board to modify the plans in accordance with Section 10 Revisions to Approved Plans.

- 11.6.4 At the close of each summer construction season the Town shall, at the expense of the developer, have the site inspected by the CEO. By October 1 of each year during which construction was done on the site, the CEO shall submit a report to the Board based on that inspection, addressing whether stormwater and erosion control measures (both temporary and permanent) are in place, are properly installed, and appear adequate. The report shall also include a discussion and recommendations on any problems which were encountered.
- 11.6.5 Prior to the sale of any lot, the developer shall provide the Board with a letter from a professional land surveyor, stating all monumentation shown on the plan has been installed.
- 11.6.6 Upon completion of street construction and prior to a vote by the Board of Selectmen to submit a proposed public way to a Town Meeting vote, a written certification signed by a professional engineer shall be submitted to the Board of Selectmen at the expense of the applicant, certifying the proposed public way meets or exceeds the design and construction requirements of these regulations. If there are any underground utilities, the servicing utility shall certify in writing they have been installed in a manner acceptable to the utility. "As built" plans shall be submitted to the Board of Selectmen.
- 11.6.7 The developer shall be required to maintain all improvements and provide for snow removal on streets and sidewalks until acceptance of the improvements by the Town or control is placed with a lot owners' association.

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### SECTION 12 - APPENDIX

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30-A, MRSA, §4401, as amended (Definitions)

30-A, MRSA, §4403, as amended (Municipal Review and Regulation)

30-A, MRSA, §4404, as amended (Review Criteria)

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

### 30-A §4401. DEFINITIONS

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**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.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**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.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**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 [1989, c. 404, §1 (NEW).]

B. Not considered part of a great pond, coastal wetland, river, stream or brook. [1989, c. 404, §1 (NEW).]

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

[ 1989, c. 404, §1 (NEW) .]

**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 [2009, c. 356, Pt. C, §1 (NEW).]

B. Used for the production of agricultural products as defined in Title 7, section 152, subsection 2. [2009, c. 356, Pt. C, §1 (NEW).]

[ 2009, c. 356, Pt. C, §1 (NEW) .]

**3. Principal structure.** "Principal structure" means any building or structure in which the main use of the premises takes place.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §1 (RPR) .]

**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. [2001, c. 359, §1 (AMD) .]

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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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. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

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. [2001, c. 651, §1 (AMD).]

D. [2001, c. 359, §2 (RP).]

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. [2001, c. 359, §3 (NEW).]

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. [2001, c. 359, §3 (NEW).]

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. [2001, c. 359, §3 (NEW).]

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 1/2 the assessed value of the real estate. [2001, c. 359, §3 (NEW).]

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. [2001, c. 359, §3 (NEW).]

D-6. A division accomplished by the transfer of any interest in land to the owners of land abutting that land that does not create a separate lot 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. [2001, c. 359, §3 (NEW).]

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. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

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. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

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. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §2 (AMD).]

H. [2001, c. 651, §2 (RP).]

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

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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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. [2001, c. 651, §3 (NEW).]

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. [2001, c. 359, §5 (AMD).]

[ 2001, c. 651, §§1-3 (AMD) .]

**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.

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**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.

[ 2007, c. 49, §1 (AMD) .]

**7. Outstanding river segments.** In accordance with Title 12, section 402, "outstanding river segments" means:

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; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

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; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

### 30-A §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: [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**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; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. The nature of soils and subsoils and their ability to adequately support waste disposal; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

C. The slope of the land and its effect on effluents; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

D. The availability of streams for disposal of effluents; and [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

E. The applicable state and local health and water resource rules and regulations; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**2. Sufficient water.** The proposed subdivision has sufficient water available for the reasonably foreseeable needs of the subdivision;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**3. Municipal water supply.** The proposed subdivision will not cause an unreasonable burden on an existing water supply, if one is to be used;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**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;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**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;

[ 2001, c. 560, §1 (AMD) .]

**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;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §8 (AMD) .]

**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;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §8 (AMD) .]

**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;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §8 (AMD) .]

**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;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**10. Financial and technical capacity.** The subdivider has adequate financial and technical capacity to meet the standards of this section;

[ 1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW) .]

**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,

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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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; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §8 (AMD).]

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

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 429, §1 (AMD); 1989, c. 497, §8 (AMD).]

**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;

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 429, §1 (AMD); 1989, c. 497, §8 (AMD); 1989, c. 878, Pt. A, §85 (RPR).]

**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;

[1989, c. 404, §2 (NEW); 1989, c. 429, §2 (NEW); 1989, c. 497, §9 (NEW); 1989, c. 772, §3 (AMD); 1989, c. 878, Pt. G, §5 (RPR).]

**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;

[2009, c. 356, Pt. C, §2 (NEW).]

**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;

[1991, c. 838, §12 (AMD).]

**16. Storm water.** The proposed subdivision will provide for adequate storm water management;

[1991, c. 838, §12 (AMD).]

**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

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## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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have a lot depth to shore frontage ratio greater than 5 to 1;

[1997, c. 226, §2 (AMD).]

**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;

[2003, c. 622, §2 (AMD).]

**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; and

[2003, c. 622, §3 (AMD).]

**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, Division 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 division, the division shall respond within 5 working days regarding its ability to provide assistance. If the division agrees to provide assistance, it shall make a finding and determination as to whether a rule violation has occurred. The division 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 division notifies a municipal reviewing authority that the division 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 a 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.

### 30-A §4403. MUNICIPAL REVIEW AND REGULATION

This section governs municipal review of proposed subdivisions. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**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.

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**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.

[1997, c. 226, §1 (AMD) .]

**2. Regulations; review procedure.** The municipal reviewing authority may, after a public hearing, adopt, amend or

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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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 7 days' notice of this hearing.

A. The regulations may provide for a multi-stage application or review procedure consisting of no more than 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. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**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. [1999, c. 761, §11 (AMD).]

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. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

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. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

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 121 that are not sealed and signed by the professional land surveyor under whose responsible charge they were completed, as provided in Title 32, section 13907. [1995, c. 93, §1 (NEW).]

[1999, c. 761, §11 (AMD) .]

**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 [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. Published, at least 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 7 days before the hearing. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §6 (AMD).]

**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; [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

B. Granting approval of the proposed subdivision; or [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

## TOWN OF VASSALBORO SUBDIVISION ORDINANCE

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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. [1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW); 1989, c. 497, §7 (AMD) .]

**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.

[1989, c. 104, Pt. A, §45 (NEW); 1989, c. 104, Pt. C, §10 (NEW).]

**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.